

IN THE MATTER OF COMPLAINT  
AGAINST THE CITY OF WAUKESHA  
POLICE DEPARTMENT AND THE WAUKESHA  
COUNTY DISTRICT ATTORNEY'S OFFICE,

Case No. 24-004

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 A.S.<sup>1</sup> against the City of Waukesha Police Department (CWPD) and the Waukesha County District Attorney’s Office (WCDA). The Board evaluated the complaint and other relevant information to determine whether there is probable cause that the respondents violated A.S.’s rights as a crime victim. *See Wis. Stat. § 950.04(1v)*. **The Board finds no probable cause.**

### BOARD PROCEDURE

2. On October 11, 2024, K.C., an attorney, on behalf of A.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

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

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

4. On November 21, 2024, the Board provided a copy of the complaint to the respondents and invited them to answer the complaint. *See* Wis. Admin. Code CVRB § 1.05(5).

5. On November 26, 2024, the CWPD filed their answer to the complaint.

6. On December 10, 2024, the WCDA filed their answer to the complaint.

7. The Board made this probable cause determination at a meeting on December 18, 2024. *See* Wis. Admin. Code CVRB § 1.05(6).

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

9. 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

### A.S.'S COMPLAINT<sup>2</sup>

**Claim I: CWPD failed to treat A.S. with dignity, respect, courtesy, sensitivity, and fairness by denying her reasonable accommodations for her disability.**

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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. On July 5, 2023, A.S. was a victim of a domestic violence incident involving C.M. which occurred in the City of Waukesha. (VRC Closing Letter 1.)

11. A.S. was interviewed by Detective S.F. from CWPD. A.S. was not offered any interview accommodations, despite providing the detective evidence of a disability. A.S. was interviewed alone and expected to remember details immediately after leaving a high stress situation. (*Id.*)

12. A.S. was not interviewed using a forensic interview. (CVRB Formal Compl. 6.)

13. A.S. had difficulty recalling aspects of the incident, due both to her disability and the traumatic nature of what occurred. (*Id.*)

14. During the interview Detective S.F. did not clarify the difference between *choked* and *strangled*. A.S. did not understand the meaning of *strangled* but explained that hands were put around her neck, and she was shaken. (*Id.*)

15. On August 10, 2023, A.S., during a phone interview, clarified that C.M. put his hands around her neck and pushed causing her to gag. Despite this, no referral was made to the District Attorney's Office for a charge of strangulation, indicating that the police did not believe A.S. (*Id.*)

**Claim II: The WCDA violated A.S.'s right to speedy disposition.**

16. On July 12, 2023, A.S. reported a fraud and domestic violence incident by C.M. (CVRB Formal Compl. 6.)

17. On August 10, 2023, there was a conference call between A.S., her attorney, an Assistant District Attorney (ADA) from the WCDA, a Victim Witness

Specialist (VWS), and Detective S.F. A.S. provided them with additional information about the domestic violence incident. (*Id.*)

18. On October 9, 2023, the VWS called A.S. and informed her that no charges would be filed. (*Id.*)

19. On January 3, 2024, A.S. went to the CWPD with an audio recording of the incident and continuing concern with identity theft. (*Id.* at 7.)

20. On April 10, 2024, the ADA responded to questions from A.S.'s attorney about the additional information and charging decision. The ADA stated that she is unable to answer the questions and that the case had been closed since August of 2023. The ADA also stated that she would not be responding to anything more about the case. (*Id.*)

21. A.S. states that it took nine months for the WCDA to decide not to charge the case and that the WCDA would no longer accept additional information despite A.S. being told otherwise. (*Id.*)

**Claim III: The WCDA violated A.S.'s right to confer.**

22. On February 6, 2024, A.S.'s attorney emailed the ADA to obtain a copy and discuss the supplemental police report filed regarding the additional evidence that A.S. had provided. The ADA responded that she is not the custodian of the record and could not provide a copy of the report to the attorney. (*Id.* at 8.)

23. On March 12, 2024, A.S.'s attorney emailed the ADA to request a meeting to discuss the supplemental report and the charging decision. (*Id.*)

24. The ADA responded that she would be happy to answer questions about the supplemental report. (*Id.*)

25. A.S.'s attorney shared A.S.'s three major concerns about the supplemental report: a cell phone taken for evidence, not including a strangulation charge, and follow up regarding C.M.'s guns. (*Id.*)

26. On April 10, 2024, the ADA responded stating that she was unable to answer the attorney's questions, the case had been closed since August 2023, and that she would not be responding to further inquiries. (*Id.*)

**CITY OF WAUKESHA POLICE DEPARTMENT RESPONSE<sup>3</sup>**

27. The CWPDP, through Assistant Chief R.O., provided a response to the complaint. (CWPDP Letter Resp. to Def.'s Compl., Nov. 26, 2024.)

**Claim I: CWPDP failed to treat A.S. with dignity, respect, courtesy, sensitivity, and fairness by denying her reasonable accommodations for her disability.**

28. Detective S.F. has extensive experience in interviewing victims including being a certified forensic investigator. (*Id.* at 1–2.)

29. Detective S.F. interviewed A.S. and A.S.'s mother for 39 minutes. Detective S.F. then interviewed A.S. individually in a "Sensitivity Room," a soft interview room designed for child interviews. (*Id.*)

30. Detective S.F. brought in another detective to discuss fraud allegations with A.S. (*Id.*)

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<sup>3</sup> This section is derived from the submissions of the WCPDP. The information contained in this section does not constitute findings of fact by the Board.

31. A.S. did not seem confused during the interviews so forensic interview techniques were not used. (*Id.*)

32. The combined interviews with A.S. lasted approximately three hours. (*Id.*)

33. CWPD stated that it is not a legal requirement that an officer/investigator believe a victim under Wis. Stat. § 950.04(1v)(ag) for a victim to be treated with dignity, respect, courtesy, sensitivity, and fairness. The officer/investigator must have probable cause to proceed with a referral for a criminal charge to the district attorney. (*Id.*)

#### **WAUKESHA COUNTY DISTRICT ATTORNEY'S RESPONSE<sup>4</sup>**

34. The WCDA, through District Attorney S.O., provided a response to the complaint. (WCDA Letter Resp. to Def.'s Compl., Dec. 10, 2024.)

#### **Claim II: The WCDA violated A.S.'s right to speedy disposition.**

35. On July 14, 2023, A.S. and her mother met with the Director of Victim Services (DVS) for the WCDA. The DVS provided A.S. with information, safety planning, and monetary emergency assistance. (*Id.* at 1.)

36. On July 26, 2023, the matter was referred to the WCDA from the CWPD. (*Id.* at 2.)

37. On July 28, 2023, an ADA and a VWS were assigned to the matter. The VWS left a message for A.S.'s attorney indicating that the matter was received and

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<sup>4</sup> This section is derived from the submissions of the WCDA. The information contained in this section does not constitute findings of fact by the Board.

notifying A.S.'s attorney of the people assigned to the matter. The VWS also prepared and sent a letter and coordinated potential meeting dates. (*Id.*)

38. On August 10, 2023, the ADA, VWS, and Detective S.F. had a telephone conference with A.S. and her attorney. During the meeting, the ADA shared that the matter was likely to not be charged. (*Id.*)

39. On August 11, 2023, the ADA received an updated statement from A.S. the ADA completed her final review of the matter and declined prosecution. (*Id.*)

40. On August 14, 2023, a letter was mailed to A.S. informing her that the ADA was declining charges. (*Id.*)

41. On September 18, 2023, A.S. spoke with the DVS. A.S. requested that the DVS call A.S.'s attorney, asked about getting a copy of the police reports, and had concerns about getting evicted. (*Id.*)

42. On September 22, 2023, the DVS called A.S.'s attorney and spoke about A.S.'s request for the police reports. A.S.'s attorney asked about the status of the case and the DVS replied that she believed that charges were declined, but she would check to make sure. (*Id.*)

43. On September 29, 2023, the DVS confirmed to A.S.'s attorney that charges had been declined. A.S.'s attorney inquired about charges related to firearms and was informed that the ATF was investigating. (*Id.*)

44. On October 9, 2023, the DVS spoke with A.S. by phone. A.S. updated her address and stated that she had not received the letter indicating that charges had been declined. Later in the conversation, A.S. acknowledged receiving the letter

declining to charge by mail. The DVS had a lengthy conversation with A.S. and was able to discuss her questions, concerns, and frustrations. (*Id.*)

45. On January 31, 2024, CWPDP sent additional reports to WCDA. On February 5, 2024, the ADA was able to review and consider the reports. The ADA continued to decline prosecution. (*Id.*)

**Claim III: The WCDA violated A.S.’s right to confer.**

46. Interactions between A.S. and the WCDA are outlined above.

47. The ADA consulted with A.S. and did her best to answer questions. The ADA directed A.S.’s attorney to contact the District Attorney directly if they had any further concerns. The District Attorney was never contacted. (*Id.*)

**ALLEGATIONS OF VICTIM RIGHTS VIOLATIONS**

48. **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).

49. **Right to timely disposition of the case, free from unreasonable delay.** The Wisconsin Constitution states, a crime victim has a right “[t]o timely disposition of the case free from unreasonable delay.” Wis. Const. art. I, § 9m(2)(d).

Wisconsin statutes also state that crime victims have a right “[t]o a speedy disposition of the case in which they are involved as a victim in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter. Wis. Stat. § 950.04 (1v)(k).

50. **Right to confer.** The Wisconsin Constitution states, 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 crime victims have a right “[t]o have, at his or her request, to opportunity to consult with the prosecution in a case brought in a court of criminal jurisdiction as provided under s. 971.095(2). Wis. Stat. § 950.04 (1v)(j).

#### **DETERMINATIONS OF FACT**

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

#### **INTERPRETATIONS OF LAW**

52. 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.

53. 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”).

54. 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).

55. 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).

56. 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).

57. 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:**

1. The Board finds **no probable cause** of a crime victims rights violation.
2. That A.S. is a crime victim as defined in Wis. Stat. § 950.02(4)(a)(1) because of her reported crime in violation of the provisions of Wis. Stat. § 968.075.
3. That the members of the City of Waukesha Police Department and Waukesha County District Attorney's Office are public officials or employees subject to the authority of the Board. *See* Wis. Stat. § 950.09(2)(a).
4. That A.S.'s August 2023- January 2024 allegation of victims rights violations fall within the three-year limitations period. *See* Wis. Admin. Code CVRB § 1.04(5).

**As to Claim I: CWPDP failed to treat A.S. with dignity, respect, courtesy, sensitivity, and fairness by denying her reasonable accommodations for her disability.**

5. That Detective S.F. has forensic interview training and interviewed A.S. for approximately three hours utilizing a “Sensitivity Room” for a least a portion of the interview.

6. That A.S. did provide information about her disability but it is unclear whether A.S. requested any accommodation or that any accommodation was necessary.

7. That failing to refer a specific charge for consideration by the District Attorney’s Office is not a violation of a victim’s rights.

8. The Board finds that the facts alleged do not meet probable cause under Wis. Stat. § 950.055.

**As to Claim II: The WCDA violated A.S.’s right to speedy disposition.**

9. That the WCDA made the decision to decline charges in August of 2023 approximately one month after the incident.

10. That WCDA considered new evidence that was presented in January of 2024, but continued to decline to prosecute the charges.

11. That the time that the WCDA took to review this matter was reasonable and did not violate A.S.’s right to speedy disposition.

12. The Board finds that the facts alleged do not meet probable cause under Wis. Stat. § 950.055.

**As to Claim III: The WCDA violated A.S.’s right to confer.**

13. That the WCDA did respond and confer with A.S. and her attorney.

14. That the WCDA provided A.S. and her attorney the opportunity to confer with the District Attorney and they chose not to avail themselves of that opportunity.

15. That the right to confer is not unlimited.

16. That the WCDA's communications with A.S. and her attorney were reasonable.

17. The Board finds that the facts alleged do not meet probable cause under Wis. Stat. § 950.055.

### **ORDER**

Based on the foregoing, it is hereby ORDERED:

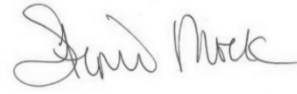
1. That there is no probable cause that a victim rights violation occurred, so the complaint is dismissed. A finding of no probable cause is a final decision of the Board under Wis. Admin. Code CVRB § 1.05(8).

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 27<sup>th</sup> day of March 2025.

A handwritten signature in cursive script, appearing to read "Stephanie Mock".

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Vice Chairperson Stephanie Mock  
Crime Victims Rights Board