

IN THE MATTER OF COMPLAINT  
AGAINST THE KENOSHA COUNTY  
DISTRICT ATTORNEYS OFFICE,

Case No. 24-007

Respondents.

---

### FINAL DECISION

---

1. The Crime Victims Rights Board (“the Board”) finds the following:

**I. The complainant has shown by clear and convincing evidence that the Respondent, the Kenosha County District Attorney’s Office (KCDA), violated J.S.’s right as a crime victim by failing to provide J.S. with his rights pursuant to Wis. Const. art. I, § 9m and Wis. Stat. § 950.**

### BOARD PROCEDURE

2. On December 4, 2024, J.S., filed a complaint with the Board. <sup>1</sup>
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).
4. The Board provided a copy of the complaint to the Respondent and invited them to answer the complaint. *See* Wis. Admin. Code CVRB § 1.05(5).
5. On January 16, 2025, the KCDA filed their answer to the complaint.

---

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

## PROBABLE CAUSE DETERMINATION

6. In its May 15, 2025 decision, the Board found probable cause that:

**I. The KCDA failed to acknowledge that J.S. was a victim and provide J.S. with his victims rights pursuant to Wis. Const. art. I, § 9m and Wis. Stat. § 950. (Final PC Determination 11-12.)**

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).

## INVESTIGATION

8. The Board requested additional information from the KCDA regarding the following:

- a. **Any office policy regarding the determination of victim status. If no policy exists, how is that determination made?**
- b. **Did KCDA provide any victims rights information to J.S.?**
- c. **Did KCDA provide any victim services to J.S.?**
- d. **Provide any communications between KCDA and J.S. regarding victim status.**

*See* Wis. Admin. Code CVRB § 1.06.

9. The KCDA did not respond to the Board's request despite several requests.

## HEARING REQUEST

10. The parties did not request a hearing. Wis. Admin. Code CVRB § 1.07.

## FINDINGS OF FACT

The Board finds the following facts:

11. That on May 10, 2023, an incident occurred between F.D. and J.S. As a result of that incident, on May 19, 2023, J.S. was charged with Disorderly Conduct in violation of Wis. Stat. § 947.01(1) and Bail Jump in violation of Wis. Stat. § 946.49(1)(a). That matter was dismissed on July 7, 2023.

12. That on June 12, 2023, F.D. was charged with a Substantial Battery, stemming from the May 10, 2023 incident, naming J.S. as the statutory victim, in violation of Wis. Stat. § 940.19(2). On March 28, 2024, F.D. pleaded guilty to an amended charge of Disorderly Conduct in violation of Wis. Stat. § 947.01(1).

13. That the KCDA made an affirmative determination that J.S. was not a victim citing Wis. Stat. § 950.02(4).

14. That the KCDA did not provide J.S. with any of the rights articulated in Wis. Const. art. I § 9m and Wis. Stat. § 950.

### **ALLEGATIONS OF VICTIM RIGHTS VIOLATIONS**

15. Under the Wis. Const. art. I § 9m (1)(a)(1) a “victim” means a person against whom an act is committed that would constitute a crime if committed by a competent adult.

16. If a person is determined to be a “victim,” under the Wis. Const. art. I § 9m(2), a crime victim shall be entitled to all of the following rights, which shall vest at the time of victimization:

- (a) To be treated with dignity, respect, courtesy, sensitivity, and fairness.
- (b) To privacy.
- (c) To proceedings free from unreasonable delay.
- (d) To timely disposition of the case, free from unreasonable delay.
- (e) Upon request, to attend all proceedings involving the case.
- (f) To reasonable protection from the accused throughout the criminal and juvenile justice process.
- (g) Upon request, to reasonable and timely notification of proceedings.
- (h) Upon request, to confer with the attorney for the government.
- (i) Upon request, to be heard in any proceeding during which a right of the victim is implicated, including release, plea, sentencing, disposition, parole, revocation, expungement, or pardon.
- (j) To have information pertaining to the economic, physical, and psychological effect upon the victim of the offense submitted to the authority with jurisdiction over the case and to have that information considered by that authority.
- (k) Upon request, to timely notice of any release or escape of the accused or death of the accused if the accused is in custody or on supervision at the time of death.
- (l) To refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused.

- (m) To full restitution from any person who has been ordered to pay restitution to the victim and to be provided with assistance collecting restitution.
- (n) To compensation as provided by law.
- (o) Upon request, to reasonable and timely information about the status of the investigation and the outcome of the case.
- (p) To timely notice about all rights under this section and all other rights, privileges, or protections of the victim provided by law, including how such rights, privileges, or protections are enforced.

17. Under Wis. Stat. § 950.02(4)(a)(1), a “victim” means a person against whom a crime has been committed.

18. If an individual is determined to be a “victim,” pursuant to Wis. Stat. § 950.04(1v) they are afforded the following rights:

- (ag)** To be treated with fairness, dignity, and respect for his or her privacy by public officials, employees, or agencies. This paragraph 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.
- (ar)** To have his or her interest considered when the court is deciding whether to grant a continuance in the case, as provided under ss. 938.315 (2) and 971.10 (3) (b) 3.
- (b)** To attend court proceedings in the case, subject to ss. 906.15 and 938.299 (1). The court may require the victim to exercise his or her right under this paragraph using telephone or live audiovisual means, if available, if the victim is under arrest, incarcerated, imprisoned or otherwise detained by any law enforcement agency or is admitted or committed on an inpatient basis to a treatment facility under ch. 51, 971 or 980, and the victim does not have a person specified in s. 950.02 (4) (a) 3. to exercise the victim’s right under this paragraph.
- (bm)** To be provided with appropriate intercession services to ensure that employers of victims will cooperate with the criminal justice process and the juvenile justice process in order to minimize an employee’s loss of pay and other benefits resulting from court appearances.
- (c)** To be accompanied by a service representative, as provided under s. 895.45.
- (d)** To request an order for, and to be given the results of, testing to determine the presence of a communicable disease, as provided under ss. 938.296 or 968.38.
- (dL)** To not be the subject of a law enforcement officer’s or district attorney’s order, request, or suggestion that he or she submit to a test using a lie detector, as defined in s. 111.37 (1) (b), if he or she claims to have been the victim of a sexual assault under s. 940.22 (2), 940.225, 948.02 (1) or (2), or 948.085, except as permitted under s. 968.265.

- (do)** To be informed about the process by which he or she may file a complaint under s. 968.02 or 968.26 (2) and about the process of an inquest under s. 979.05 if he or she is the victim of an officer-involved death, as defined in s. 175.47 (1) (c).
- (dr)** To not have his or her personal identifiers, as defined in s. 85.103 (1) and including an electronic mail address, used or disclosed by a public official, employee, or agency for a purpose that is unrelated to the official responsibilities of the official, employee, or agency.
- (e)** To be provided a waiting area under ss. 938.2965 and 967.10.
- (em)** To have his or her interests considered by the court in determining whether to exclude persons from a preliminary hearing, as provided under s. 970.03 (4).
- (er)** To not be compelled to submit to a pretrial interview or deposition by a defendant or his or her attorney as provided under s. 971.23 (6c).
- (f)** To have the parole commission make a reasonable attempt to notify the victim of applications for parole, as provided under s. 304.06 (1).
- (g)** To have reasonable attempts made to notify the victim of hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6), 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).
- (gm)** To have reasonable attempts made to notify the victim of petitions for sentence adjustment as provided under s. 973.09 (3m), 973.195 (1r) (d), or 973.198.
- (i)** To have, at his or her request, the opportunity to consult with intake workers, district attorneys and corporation counsel in cases under ch. 938, as provided under ss. 938.245 (1m), 938.265 and 938.32 (1) (am).
- (j)** To have, at his or her request, the opportunity to consult with the prosecution in a case brought in a court of criminal jurisdiction, as provided under s. 971.095 (2).
- (k)** To 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.
- (L)** To have the district attorney or corporation counsel, whichever is applicable, make a reasonable attempt to contact the victim concerning the victim's right to make a statement, as provided under ss. 938.32 (1) (b) 2., 938.335 (3m) (b) and 972.14 (3) (b).
- (m)** To provide statements concerning sentencing, disposition, or parole, as provided under ss. 304.06 (1) (e), 938.32 (1) (b) 1g., 938.335 (3m) (ag), and 972.14 (3) (a).
- (n)** To have direct input in the parole decision-making process, as provided by the rules promulgated under s. 304.06 (1) (em).
- (nn)** To attend parole interviews or hearings and make statements as provided under s. 304.06 (1) (eg).
- (nt)** To attend a hearing on a petition for modification of a bifurcated sentence and provide a statement concerning modification of the bifurcated sentence, as provided under s. 302.113 (9g) (d).

- (nx)** To attend a hearing on a petition for modification of a term of probation under s. 973.09 (3) (d) and provide a statement to the court concerning modification of the term of probation as provided under s. 973.09 (3m).
- (o)** To have information concerning the impact of a delinquent act on the victim included in a court report under s. 938.33 and to have the person preparing the court report attempt to contact the victim, as provided under s. 938.331.
- (p)** To have the person preparing a presentence investigation under s. 972.15 make a reasonable attempt to contact the victim, as provided in s. 972.15 (2m), and to view the sentence recommendation and any victim information included on the presentence investigation report, as provided in s. 972.15 (4m).
- (pd)** Subject to the limits set forth in s. 972.15 (4r), to view portions of a presentence investigation report prepared under s. 972.15 that relate to the crime upon the victim.
- (pm)** To have the court provided with information pertaining to the economic, physical and psychological effect of the crime upon the victim and have the information considered by the court.
- (q)** To restitution, as provided under ss. 938.245 (2) (a) 5., 938.32 (1t), 938.34 (5), 938.345, 943.212, 943.23 (6), 943.245, 943.51 and 973.20.
- (qm)** To recompense as provided under s. 969.13 (5) (a). (r) To a judgment for unpaid restitution, as provided under ss. 895.035 (2m) and 973.09 (3) (b).
- (rm)** To compensation, as provided under subch. I of ch. 949.
- (s)** To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence, subject to s. 968.205. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, property subject to preservation under s. 968.205, and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.
- (t)** To receive information from law enforcement agencies, as provided under s. 950.08 (2g).
- (u)** To receive information from district attorneys, as provided under s. 950.08 (2r).
- (um)** To have district attorneys make a reasonable attempt to notify the victim under s. 971.17 (4m) regarding conditional releases under s. 971.17.
- (v)** To have the department of corrections make a reasonable attempt to notify the victim under s. 301.046 (4) regarding community residential confinements, under s. 301.048 (4m) regarding participation in the intensive sanctions program, under s. 301.38 regarding escapes from a Type 1 prison, under s. 301.46 (3) regarding persons registered under s. 301.45, under s. 302.105 regarding release upon expiration of certain sentences, under s. 304.063 regarding

extended supervision and parole releases, and under s. 938.51 regarding release or escape of a juvenile from correctional custody.

- (vg)** To have the department of corrections make a reasonable attempt to notify the victim, pursuant to s. 302.107, of a revocation of parole or of release to extended supervision under s. 302.11 (7), 302.113 (9), 302.114 (9), or 304.06 (3) or (3g).
- (vm)** To have the appropriate clerk of court send the victim a copy of an inmate's petition for extended supervision and notification of the hearing on that petition under s. 302.114 (6).
- (w)** To have the department of corrections make a reasonable attempt to notify the victim under s. 303.068 (4m) regarding leave granted to qualified inmates under s. 303.068.
- (x)** To have the department of health services make a reasonable attempt to notify the victim under s. 971.17 (6m) regarding termination or discharge under s. 971.17 and under s. 51.37 (10) regarding home visits under s. 51.37 (10).
- (xm)** To have the department of health services make a reasonable attempt to notify the victim under s. 980.11 regarding supervised release under s. 980.08 and discharge under s. 980.09 (4).
- (y)** To have reasonable attempts made to notify the victim concerning actions taken in a juvenile proceeding, as provided under ss. 938.24 (5m), 938.25 (2m), 938.312 and 938.346.
- (yd)** To have the appropriate clerk of court make a reasonable attempt to send the victim a copy of a motion made under s. 974.07 (2) for postconviction deoxyribonucleic acid testing of certain evidence and notification of any hearing on that motion, as provided under s. 974.07 (4).
- (ym)** To have the governor make a reasonable attempt to notify the victim of a pardon application, as provided under s. 304.09 (2) and (3).
- (z)** To make a written statement concerning pardon applications, as provided under s. 304.10 (2).
- (zm)** To request information from a district attorney concerning the disposition of a case involving a crime of which he or she was a victim, as provided under s. 971.095 (6).
- (zx)** To complain to the department of justice concerning the treatment of crime victims, as provided under s. 950.08 (3), and to request review by the crime victims rights board of the complaint, as provided under s. 950.09 (2).

## CONCLUSIONS OF LAW

19. 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).

20. 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.

21. The Board concludes that J.S. is a crime victim, as defined in Wis. Const. art. I, § 9m(1)(a)(1) and Wis. Stat. § 950.02(4)(a)(1).

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

23. The Board concludes that J.S.'s allegation of victims rights violations fall within the three-year limitations period. *See* Wis. Admin. Code CVRB § 1.04(5).

**I. The KCDA failed to acknowledge that J.S. was a victim and provide J.S. with his victims rights pursuant to Wis. Const. art. I, § 9m and Wis. Stat. § 950.**

24. The Board concludes that there is clear and convincing evidence that J.S. was a crime victim and that the KCDA should have provided J.S. with the rights articulated in Wis. Const. art. I, § 9m and Wis. Stat. § 950.

25. The Board concludes that when the KCDA made the decision to charge F.D. with a Substantial Battery against J.S. in violation of Wis. Stat. § 940.19(2), J.S. was clearly a statutory victim.

26. The Board concludes that despite J.S. being charged for actions stemming from the same incident, Wis. Stat. § 950.02(4)(b) does not apply.<sup>2</sup>

27. The Board concludes that Wis. Stat. § 950.02(4)(b) contemplates the individual that committed “the” crime, not “a” crime. The distinction is that there are often several “crimes” that could be charged in a single incident. Those crimes may have different perpetrators and different victims depending on the circumstances. Just because someone was a perpetrator in a crime arising out of an incident, does not mean that they are not also a victim of a different crime arising out of the same incident. In circumstances where the charged crime has a statutory victim, the analysis is clear. The statutory victim should be provided victims’ rights. Where the crime does not contain a statutory victim, the analysis may be more challenging.

### **ORDER**

Based on the foregoing, it is hereby ORDERED:

1. That the complainant has shown by clear and convincing evidence that the Respondent violated his rights as a crime victim.

2. That the Board recognizes that across the state there are currently a variety of interpretations and practices in dealing with charging both parties with crimes stemming from the same incident. The Board will be issuing a Report and Recommendation to address these issues. 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.

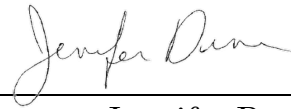
4. That judicial review of this final decision is governed by Wis. Stat. §§ 227.52–.59. See Wis. Admin. Code CVRB § 1.10.

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.

---

<sup>2</sup> Wis. Stat. § 950.02(4)(b) states, “Victim” does not include the person charged with or alleged to have committed the crime.”

Dated this 19<sup>th</sup> day of December, 2025.

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

---

**Chairperson Jennifer Dunn**  
**Crime Victims Rights Board**