



REPORT OF THE WISCONSIN CRIME VICTIMS RIGHTS BOARD

April 3, 2023

Introduction

The Crime Victims Rights Board (the “Board”) has authority to issue reports and recommendations concerning the securing and provision of crime victims’ rights and services. Wis. Stat. § 950.09(3). This report is issued in response to a complaint reviewed by the Board, in which the Board found that a law enforcement agency violated a victim’s right to be treated with dignity, respect, courtesy, sensitivity, and fairness pursuant to Wis. Const. art. I, § 9m(2)(a), to privacy pursuant to Wis. Const. art. I, § 9m(2)(b), and to be treated with dignity and respect for her privacy as required by Wis. Stat. § 950.04(1v)(ag).¹ This report is being written and circulated widely by the Board with the intent to improve the justice system’s response to victims of crime through better compliance with victims’ rights.

Factual Background

Complainant SN² was a victim of sexual assault who reported the assault to law enforcement. After she reported, the agency had contact with acquaintances of SN. In one instance, the agency received a report of a sexual assault alleged to have occurred at the same residence where SN was assaulted, by a different perpetrator. In the other situation, the agency responded to a sexual assault center to take the report of a victim who wanted to report additional information about SN’s assault. During these interactions, the officer shared information about an unrelated law enforcement contact involving SN and reportedly made negative comments about SN’s family. The acquaintances also reported that the officer they spoke with made comments questioning SN’s credibility and spoke about the weakness of her case.

¹ The Board has statutory authority to review complaints filed against public officials, employees, and agencies by crime victims alleging violations of crime victims rights. *See* Wis. Stat. § 950.09.

² This report uses a pseudonym to protect the victim’s privacy.

Ultimately, SN's assault was charged and prosecuted. However, prior to that happening, according to statements provided to the Board, at least one additional victim decided not to report her sexual assault to the agency because of how SN was treated.

Relevant Laws

Wis. Const. art. I, § 9m(2):

[V]ictims shall be entitled

. . . .

(a) To be treated with dignity, respect, courtesy, sensitivity, and fairness.

(b) To privacy

Wis. Stat. § 950.04(1v):

Victims of crimes have 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.

. . . .

(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

Discussion

In addition to alleging the agency's conduct violated her right to dignity and respect, the complainant presented two privacy claims to the Board. First, she objected to her name and case being discussed in any fashion with the other victims. Second, she objected to specific aspects of what was discussed in those conversations including allegedly unfair, disrespectful and insensitive comments made about her and her family, including the officer's opinion that her case was weak and would not be prosecuted.


To address the first claim that SN's name and case should not have been discussed in any fashion with other parties, the Board analyzed the constitutional right to privacy³ and the statutory right to not have personal identifiers disclosed by a public official, employee, or agency for a purpose that is unrelated to the official responsibilities of the official, employee, or agency.⁴ The record showed that SN's name was not brought up by the agency but rather by SN's acquaintances. Further, the agency was potentially investigating multiple sexual assaults that occurred at the same location with ties to the same group of friends. Given these circumstances, these discussions were not unrelated to the official responsibilities of the agency. Within the context of those specific circumstances, the Board found there was not probable cause that the agency violated Wis. Const. art. I, § 9m(2)(b) nor Wis. Stat. § 950.04(1v)(dr).

However, the Board did find that the complainant met her burden to show that some comments made during those conversations, such as mentioning an unrelated law enforcement contact, disrespected SN's right to privacy under Wis. Const. art. I, § 9m(2)(b) and respect for her privacy under Wis. Stat. § 950.04(1v)(ag). Likewise, suggesting her case was weak because she lacked credibility offended the victim's right to dignity and respect pursuant to Wis. Const. art. I, § 9m(2)(a) and Wis. Stat. § 950.04(1v)(ag). Calling SN's credibility into question in conversations with her peers was embarrassing, demoralizing and insensitive. Additionally, suggesting to one reporting victim that another victim's case—with similar elements—was never going to be prosecuted and speaking poorly of SN may have dissuaded that victim from reporting to law enforcement, according to records before the Board.

Conclusion

The agency was reprimanded by the Board for their conduct in this case. This report was created to serve a remedial function to encourage all public officials to carefully consider the victim rights at issue in this case and commit to practices and an organizational culture protective of those rights. Additionally, this report illustrates the effect that poor treatment can have on a victim and others who might withdraw from engagement with the system because of that treatment. Public safety efforts are greatly enhanced when victims are treated with dignity and can trust that they will be treated with sensitivity when they cooperate with the investigation and prosecution of crime.

Dated this 3rd day of April, 2023.



Chairperson Jennifer Dunn
Crime Victims Rights Board

³ Wis. Const. art. I, § 9m(2)(b)

⁴ Wis. Stat. § 950.04(1v)(dr)