

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

Case No. 21-014

Respondent.

FINAL DECISION

1. The Crime Victims Rights Board (the "Board") finds that complainant TM¹ has shown by clear and convincing evidence that respondent Milwaukee County District Attorney's Office (the "DA's Office") violated TM's rights as a crime victim. *See* Wis. Stat. § 950.04(1v).

BOARD PROCEDURE

2. TM filed a complaint with the Board on December 31, 2021.

3. Upon receipt of the complaint, the Board contacted the Department of Justice (DOJ) Office of Crime Victim Services, which verified that the substance of the complaint had been presented to DOJ and that DOJ had completed the informal complaint process as to the issues raised in the complaint. *See* Wis. Admin. Code CVRB § 1.05(1), (4).

¹ This final decision uses the victim's initials to protect the victim's privacy.

4. The Board gave a copy of the complaint to the DA's Office and invited it to answer the complaint. *See* Wis. Admin. Code CVRB § 1.05(5). The DA's Office did not file a response.

5. At a meeting on April 21, 2022, the Board found probable cause. *See* Wis. Admin. Code CVRB § 1.05(6).

6. The Board notified the parties and DOJ of its conclusions through the issuance of a written probable cause determination on June 1, 2022. *See* Wis. Admin. Code CVRB § 1.05(8).

PROBABLE CAUSE DETERMINATION

7. The Board found probable cause that the DA's Office violated TM's rights to information concerning the disposition of the case and to a speedy disposition of the case. *See* Wis. Stat. § 950.04(1v)(k), (zm); Wis. Const. art. I, § 9m(2)(d).

HEARING REQUEST

8. On June 10, 2022, Assistant District Attorney (ADA) Jessica Bellows submitted a request for an evidentiary hearing, as permitted by Wis. Admin. Code CVRB § 1.07(1). ADA Bellows also submitted a narrative response to the allegations in the complaint.

9. The Board finds that an evidentiary hearing is unnecessary because the Board has all the information it needs to resolve any material factual disputes and issue a final decision on the complaint.

FINDINGS OF FACT

10. The Board's evidentiary standard for resolving disputed factual questions is the "[c]lear and convincing evidence" standard. "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).

11. 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 presented by the parties 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.

12. TM was the victim of a robbery that occurred on December 31, 2018. The offender was arrested on January 8, 2019, and the case was referred to the DA's Office. This fact is undisputed.

13. The DA's Office decided not to charge the case in November 2020, but the offender had other charges pending, which were resolved by a plea agreement in April 2021. This fact is undisputed.

14. TM contacted the DA's Office several times to ask about the status of her case. Victim/Witness Advocate Katherine Gass spoke with TM several times starting in April 2021. This fact is undisputed.

15. ADA Bellows contacted TM on June 25, 2021. During the telephone conversation, ADA Bellows told TM that she decided not to charge the case in November 2020. This fact is undisputed.

16. The DA's Office concedes that a Victim/Witness Advocate was never assigned to TM's case, and that the DA's Office did not send TM a letter indicating that the DA's Office was declining to issue charges, contrary to the usual practice of the office. This fact is undisputed.

17. The DA's Office has since placed a Victim/Witness Advocate in the General Crimes Charging Unit to enhance communication with victims at the earliest stages of review. This fact is undisputed.

VICTIM RIGHTS AT ISSUE

18. **Right to information concerning disposition of a case.** A crime victim has a right 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)." Wis. Stat. § 950.04(1v)(zm). Wisconsin Stat. § 971.095(6) provides that "[a] district attorney shall make a reasonable attempt to provide information concerning the disposition of a case involving a crime to any victim of the crime who requests the information."

19. **Right to a speedy disposition of the case.** A crime victim has a right 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.” Wis. Stat. § 950.04(1v)(k); *see also* Wis. Const. art. I, § 9m(2)(d).

CONCLUSIONS OF LAW

20. The Board concludes that TM was a crime victim because she reported that she was the victim of a robbery, conduct prohibited by state law and punishable by a fine or imprisonment or both. *See* Wis. Stat. §§ 939.12, 939.50, 943.32, 950.02(1m), (4).

21. The Board concludes that the DA’s Office is a public agency subject to the authority of the Board. *See* Wis. Stat. § 950.09(2)(a).

22. The Board considered whether the undisputed facts demonstrate that the DA’s Office violated TM’s rights to information concerning the disposition of the case and to a speedy disposition of the case. *See* Wis. Stat. § 950.04(1v)(k), (zm); Wis. Const. art. I, § 9m(2)(d).

23. **Right to information concerning disposition of a case.** It is undisputed that TM contacted the DA’s Office several times—starting, at the latest, in April 2021—to ask about the status of her case, but that ADA Bellows did not contact her until June 25, 2021, at which point ADA Bellows told TM

that she decided not to charge the case in November 2020. Based on these facts, there was a seven-month delay between the time when ADA Bellows made the dispositive decision not to charge and when she told TM about that decision. The DA's Office concedes that a Victim/Witness Advocate was never assigned to TM's case, and that the DA's Office did not send TM a letter indicating that the office was declining to issue charges. While the DA's Office has since taken action to enhance communication with victims, the undisputed facts demonstrate that the DA's Office violated TM's right to information concerning the disposition of the case. *See Wis. Stat. § 950.04(1v)(zm).*

24. **Right to a speedy disposition of the case.** In analyzing an alleged violation of the right to a speedy disposition, the Board (1) identifies each delay, (2) determines the cause of the delay, (3) determines whether the delay was reasonable, and (4) if the delay was unreasonable, determines whether the delay was attributable to the respondent.

25. It is undisputed that the offender was arrested and the case was referred to the DA's Office in January 2019, yet the charging decision was not made until November 2020, almost two years later. Then, another seven months passed before the DA's Office told TM about the decision not to charge on June 25, 2021. While the DA's Office was required to address multiple referrals and charging decisions relating to the same defendant, the Board finds that the delay as to resolution of the incident involving TM was

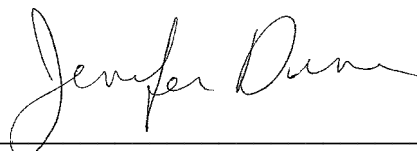
unreasonable and attributable to the DA's Office. The Board finds that TM has shown by clear and convincing evidence that the DA's Office violated TM's right to a speedy disposition of the case. *See* Wis. Stat. § 950.04(1v)(k); Wis. Const. art. I, § 9m(2)(d).

ORDER

Based on the foregoing, it is hereby ORDERED:

1. That the complainant has shown by clear and convincing evidence that the respondent violated her rights as a crime victim.
2. That the Board declines to issue a sanction against the DA's Office because the DA's Office has voluntarily taken remedial action to improve communication with victims. *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.

Dated this 24th day of August, 2022.

A handwritten signature in black ink, appearing to read "Jennifer Dunn", is written over a horizontal line.

Chairperson Jennifer Dunn
Crime Victims Rights Board

SERVICE LIST

T.M.

[street address withheld]

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