



OFFICE OF THE DISTRICT ATTORNEY
Milwaukee County

JOHN T. CHISHOLM · District Attorney

Chief Deputy Kent L. Lovern, Deputies Lovell Johnson, Jr., Jeffrey J. Altenburg, Karen A. Loebel,
Elisabeth Mueller, Matthew J. Torbenson, Megan Newport

May 31, 2024

[REDACTED]

RE: Complaint regarding former Supervisor Berg

Dear [REDACTED],

The Milwaukee County District Attorney's Office has received your verified complaint, dated February 28, 2024, regarding alleged criminal acts committed by former Kenosha County Supervisor Andy Berg. In particular, your complaint alleges that Mr. Berg violated Wis. Stat. § 11.1205 by distributing more than 50 identical pieces of taxpayer funded materials.

At this time, my office is declining to file criminal charges relating to this matter. The District Attorney's Office's statutory mandate is limited to prosecuting crime. Upon a review of the facts and law, it has been determined that there is insufficient evidence to prove beyond a reasonable doubt that a crime was committed. To prove this offense, the State would need to establish that Mr. Berg used public funds for the cost of materials or distribution of identical materials. The items that he distributed, the County Maps, were created prior to the prohibited period. They were not created at Mr. Berg's direction, but in the ordinary course of the Parks Department. Thus, Mr. Berg did not use public funds for the cost of those materials. There is no evidence public funds were expended for the distribution of the materials; it appears that they were handed out. Further, there has been a change in the law in 2023 Wisconsin Act 105. This decriminalizes the Use of Governmental Materials by Candidates. This does indicate a public policy choice by the Legislature on the appropriate resolution of these matters.

At this time, this office has no basis to issue criminal charges in this matter.

Thank you for your time.

Regards,

A handwritten signature in blue ink, appearing to read "Matthew Westphal".

Matthew Westphal
Assistant District Attorney