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Milwaukee's Criminal Justice System Failed Peter Jerving and Milwaukee

Last week, following the killing of police officer Peter Jerving, local and state leaders alike called for change to stop the senseless, preventable, tragic violence in Milwaukee. And they're right. While the causes of violence are many, solving the crisis that is the Milwaukee criminal justice system would go a long way.

Let's start with the front line – police officers and police policies. The police keep our community safe while preventing violence and crime. For years, I have been calling attention to shrinking size of the Milwaukee Police Department. Having fewer officers on the street necessarily means less enforcement. Milwaukee's police are stretched thin. There aren't enough of them to safeguard the whole community.

Overly restrictive police policies also play a role. The harm from former Chief Flynn's no-chase policy continues today. While that misguided policy thankfully ended in 2017, the city would again handcuff law enforcement in 2018 by entering into what is known as the "Collins Agreement."

The Collins Agreement is the result of an ACLU lawsuit alleging that Milwaukee Police were engaged in unconstitutional, discriminatory policing. As part of the agreement, Milwaukee agreed to rescind its policy labeling traffic enforcement a critical part of policing because of its impact on other crime. The agreement also requires massive paperwork for any interaction with the public, and places strict limits on when law enforcement can stop and speak to someone.

The Collins Agreement has had a direct result on crime in Milwaukee. Since the Agreement went into effect, Milwaukee has had three straight record years for murder, and seen reckless driving become a literal catastrophic crisis for the city. At the same time, field interviews by police have fallen 90% in those four years. Traffic stops have fallen by 79%. Simply put, the Collins Agreement prevents police from doing their job.

When the Milwaukee police are able to do their job and arrest someone, Milwaukee's criminal justice system continues to fail us. Jerving's killer was arrested shortly after his 18th birthday for

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a hit and run with injury, a felony. Right away, District Attorney John Chisholm threw out the felony charge and charged the crime as a misdemeanor, felony penalties were off the table.

Chisholm dropping the felony charge was entirely predictable. Before District Attorney John Chisholm took away public access to his “no charge” files, we got to see how his office works. In 2020, 60% of felony referrals, 65% of misdemeanor referrals and nearly 50% of gun crime referrals were not even prosecuted. This means more than half of the arrests in Milwaukee County aren’t even put before a judge.

When Chisholm does his job and charges a case, the bail decision is already impacted. Leaving aside Milwaukee County judges’ notoriously low bail decisions, Jerving’s case shows the need for bail reform. The crime before the judge was only a misdemeanor, not a felony because of the charging decision. Judges can’t look at anything other than flight risk when setting bail, so a \$1,000 signature bond may have been an appropriate bail amount. But then, Jerving’s killer TWICE failed to show for court. TWICE, bench warrants were issued and TWICE, the bail wasn’t forfeited. TWICE, there were no consequences for Jerving’s killer.

When the court convicted Jerving’s killer and there was finally an opportunity for consequences, Milwaukee County’s criminal justice system failed us again. Rather than actual jail time, the Milwaukee judge stayed the sentence and granted probation. The only real “consequence” was having to take driver’s safety classes, and asking him nicely to follow the law. That’s it.

What lesson did Jerving’s killer learn through his 18 month trip through Milwaukee’s criminal justice system and the lack of consequences for his actions along the way? Hours later, he committed armed robbery, fled from the scene, engaged in a shootout with police and killed Peter Jerving.

Peter Jerving’s killer is just one person, but his treatment from the Milwaukee County criminal justice system is emblematic of the crime problems in Milwaukee. The Milwaukee Police Department isn’t allowed to do their job because of city policies. When they do their job, the Milwaukee County DA throws out charges, or undercharges. If a judge actually sees a defendant, low bail is given. When that bail is violated, it’s not forfeited. And when the defendant is convicted, no jail time, and no real consequences are given. And then the cycle begins again.

The violence in Milwaukee is senseless, preventable, and tragic. But it will continue until Milwaukee demands and implements change. Milwaukee’s criminal justice system fails to hold people accountable at virtually every step of the process. It fails Milwaukee. It fails to keep Milwaukee safe. And it failed Peter Jerving.