



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

J.B. VAN HOLLEN
ATTORNEY GENERAL

Kevin M. St. John
Deputy Attorney General

Steven P. Means
Executive Assistant

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Kevin C. Potter
Legal Services Administrator
potterkc@doj.state.wi.us
608/266-0332
TTY 1-800-947-3529
FAX 608/266-1656

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**STATEMENT ON RELEASE OF SELECTED RECORDS;
FOND DU LAC OFFICER-INVOLVED SHOOTING CASE**

The Department of Justice has received numerous requests for copies of the Division of Criminal Investigation (“DCI”) investigation into an incident that occurred in Fond du Lac on March 20, 2011, which resulted in the deaths of Fond du Lac Police Officer Craig Birkholz and Mr. James Cruckson.

The DCI investigation has been prepared for release in response to numerous public records requests. Due to the widespread interest in this matter, some of the records released in response to those requests also are being posted on this website for public access. Readers of these records may find it helpful to start with DCI’s timeline of relevant events and Fond du Lac County District Attorney Dan Kaminsky’s factual summary.

The records selected for website posting are likely to be of more general interest than certain other portions of the DCI investigation. For example, routine reports documenting evidentiary chains of custody have been omitted. Also omitted are reports of more tangential relevance, such as those documenting neighborhood canvass activities that occurred somewhat later in the investigation.

Other information was redacted from the DCI investigative records prepared for release, either because specifically required by law or pursuant to the public records law balancing test. Redactions from the records selected for website posting are described below.¹

We were mindful in preparing these records for release that the purpose of the Wisconsin public records law is to shed light on the workings of government and the acts of public officers and employees in their official capacities. *Building and Constr. Trades Council v. Waunakee Comm. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998). The public records law is not intended to provide the public with access to information that otherwise would be private or to provide a mechanism to satisfy public curiosity about matters that do not involve the operation of government.

As discussed in more detail below, we also were very mindful of the privacy interests of the victims of these crimes and their loved ones as we prepared the case records for public release. The records include information about three crime victims: City of Fond du Lac Police Officer Craig Birkholz, who was fatally shot by James Cruckson; City of Fond du Lac Police Officer

¹ Some of the DCI agents’ narrative reports that were prepared for public release correspond to records in more complicated original formats that have not been prepared for public release at this time. Relevant information from the original format records was included by the agents in their case reports, which can be reviewed and redacted more quickly than the original format records. In some cases, specialized software or technology not possessed by members of the general public is required to access these original format records.

Ryan Williams, who was shot by Mr. Cruckson but survived; and Josephine Warner, who was sexually assaulted by Mr. Cruckson.² The Wisconsin Constitution and related laws require that crime victims be treated with fairness, dignity and respect for their privacy. “[J]ustice requires that all who are engaged in the prosecution of crimes make every effort to minimize further suffering by crime victims.” *Schilling v. Crime Victim Rights Bd.*, 2005 WI 17, ¶ 26, 278 Wis. 2d 216, 692 N.W.2d 623. The privacy rights of a deceased person’s surviving loved ones also are well-established. *Cf. National Archives and Records Admin. v. Favish*, 541 U.S. 157, 168, 171-72 (2004).

Redactions to protect the privacy and dignity of crime victims and their surviving loved ones

- Graphic details of the injuries received by Officer Birkholz, his medical condition and treatment, his autopsy and related family matters; photographs taken of his injuries and at his autopsy; his autopsy report; lists of evidence obtained during autopsy; related crime lab documentation
- Graphic details of the injuries received by Officer Williams, his medical treatment, and related family matters; photographs taken of Officer Williams’ injuries and during his medical treatment; photographs of blood pools and trails resulting from Officer Williams’ injuries; lists of evidence obtained in connection with Officer Williams’ injury and treatment
- Information about the private thoughts, feelings, and emotional state of Officer Williams
- Graphic details of the sexual assault against Ms. Warner, the nature of her injuries, and her medical treatment; lists of evidence obtained in connection with her medical treatment; related crime lab documentation; photographs of the areas of her home where she was sexually assaulted
- Information on Ms. Warner’s cell phone, except as closely related to the tragic events that occurred in the early morning hours of March 20, 2011
- Information about Ms. Warner’s private life that was not significant to this investigation

Redactions to protect the safety of specific individuals or members of the public

- Information about the location or residence of members of the public identified in 911 calls, neighborhood canvass interviews, or other investigative activities who are young children, elderly persons, or persons with physical limitations whose safety might be compromised by disclosure of their locations
- Information about the location of weapons used by law enforcement officers responding to this incident
- Information that would directly or indirectly identify persons Ms. Warner has dated, has been rumored to date, or might be construed to have dated³

²The Department of Justice usually redacts the names of sensitive crime victims when responding to public records requests, but has not redacted Ms. Warner’s name from these records because it already has become publicly known through media interviews she granted earlier this year.

³Ms. Warner’s personal relationships, real or imagined, are her own private business and bear little, if any, relevance to the crimes investigated by DCI.

Redactions to protect the privacy of specific individuals, or to prevent unfair reputational damage to persons mentioned in investigative reports

- Information about the families of Officer Birkholz, Officer Williams, a law enforcement negotiator who spoke with Mr. Cruckson by telephone several times and another officer who responded to the scene on March 20, 2011
- James Cruckson's autopsy report and toxicology report, photographs taken during Mr. Cruckson's autopsy and photographs that include his body and a blood pool
- Information about medications taken by Mr. Cruckson
- Information related to Ms. Warner's young daughter
- Names and identifying information about other men dated by Ms. Warner, other women dated by Mr. Cruckson, the former marriages of Ms. Warner and Mr. Cruckson, and other persons dated by or involved in relationships with third persons, some of which consists of uncorroborated rumor, or is otherwise of questionable veracity⁴

Redactions to protect against identity theft or other unauthorized use of economically valuable personal information, or to protect the privacy of persons who participated in DCI's investigation

- Birthdates, home addresses and home telephone numbers of law enforcement officers and other public employees
- Birthdates of other individual persons, except where birthdates appear in court records or otherwise have become publicly known
- Home addresses, home telephone numbers and personal cell telephone numbers

Redactions to protect the effective investigation and prosecution of crime

- Direct phone numbers and cell phone numbers assigned to specific law enforcement officers
- A firearms trace report provided confidentially to DCI by the federal Bureau of Alcohol, Tobacco, and Firearms

⁴Ms. Warner has a male friend who is a local police officer in the Fond du Lac area. Ms. Warner and that officer have been friends for several years, and had a very brief romantic relationship some months before the March 20, 2011 incident. The officer was not on duty and was not involved in the events of March 20, 2011, except to advise Ms. Warner to contact the police after she had been sexually assaulted. DCI's investigation concluded that the previous romantic relationship between Ms. Warner and that officer had nothing to do with the events of March 20, 2011, contrary to unsubstantiated rumors that have circulated in some local media. Due to the risk of threat and harassment to that officer, and to prevent unwarranted invasion of his privacy, his name was redacted from the records prior to public release. None of the officers actually involved in the shooting had any type of relationship with Ms. Warner. Disclosing the identities of any other men dated by Ms. Warner also may subject them to harassment or other harm, given certain rumors and accusations that have circulated following the shooting.