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To Whom This May Concern:

In response to public records requests received by the Wisconsin Department of Justice (DOJ), a copy of DOJ's Division of Criminal Investigation (DCI) investigative case file for DCI's investigation into the February 24, 2016 shooting by Walworth County Sheriff's Department Deputy Juan Ortiz, which resulted in the death of Christopher J. Davis, has been prepared for release.

The DCI case in question is *16-1001: Walworth County: East Troy OID*. That investigative case file has been reviewed in preparation for public release, and a copy of the case file reports has been made available online on the Wisconsin Department of Justice's website at [www.doj.state.wi.us/dci/officer-involved-critical-incident](http://www.doj.state.wi.us/dci/officer-involved-critical-incident). Access to copies of related photographs, audio recordings and video recordings may be obtained by contacting DOJ Communications Director Johnny Koremenos at [koremenosj@doj.state.wi.us](mailto:koremenosj@doj.state.wi.us).

Certain information has been redacted from the records, either because specifically required by law or pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. These redactions are described below. In addition, I have been 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).

Well-established public policy recognizes the privacy rights of a deceased person's surviving loved ones. *Cf. National Archives and Records Admin. v. Favish*, 541 U.S. 157, 168, 171-72 (2004). In preparing these records for release, I applied the Wis. Stat. § 19.35(1)(a) public records balancing test and determined that the public interest in treating surviving loved ones of the deceased with respect for their privacy and dignity outweighs any legitimate public interest in disclosure of the following information:

- Graphic images of Christopher Davis taken at the hospital.
- Autopsy photos of Mr. Davis.
- Audio of the notification of Mr. Davis' family of his death.

In performing the balancing test, I determined that the public interest in protecting the privacy of Mr. Davis' family, and in facilitating cooperation with law enforcement in sensitive investigations, also outweighs any public interest in disclosure of the described records. *Cf. Linzmeyer v. Forcey*, 2002 WI 84, ¶ 38, 254 Wis. 2d 306, 646 N.W.2d 811.

In preparing these records for release, I also determined by application of the public records balancing test that the public interest in protecting the ability of law enforcement to gather information when conducting sensitive investigations and in protecting the privacy of citizens involved in those investigations outweighs any legitimate public interest in disclosure of identifying information that could identify witnesses and other individuals referenced by witnesses. *Cf. Wis. Stat. § 19.31; Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41. Due to the sensitive and sometimes controversial nature of officer-involved shooting incidents, public disclosure of the full names and other identifying information for individuals interviewed or mentioned during interviews could expose these individuals to unwanted public scrutiny, criticism, or pressure from outside sources, which could have a chilling effect on future witnesses' willingness to come forward and cooperate with law enforcement in investigations of similar incidents. Accordingly, the following information has been redacted from the records prepared for release:

- Names of adult witnesses, family members and others mentioned by individuals interviewed or in related records.

Initials for the names of these individuals have been left unredacted. The names of Paul Davis Sr., Paulara Davis, and Doretha Lock are included in media accounts, and therefore, they have not been redacted from the DCI records. For family members who share the last name of Mr. Davis, only the first names of the family members were redacted to the initial.

- Names of individuals cooperating with law enforcement investigations in a confidential capacity.
- Other information that would identify the above individuals.

Dates of birth, home addresses, home and personal cell telephone numbers and signatures for these individuals have been redacted, along with information regarding places and/or hours of work.

- Audio and video recordings of witness interviews.

In performing the balancing test, I determined that the public interest in avoiding unnecessary intrusion into the personal lives of persons collaterally mentioned in a law enforcement report outweighs any legitimate public interest in information about the conduct of governmental affairs. Furthermore, I determined that the public interest in protecting the privacy of these individuals, and in facilitating cooperation with law enforcement in sensitive investigations, also outweighs any public interest in disclosure of this described information. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶ 38.

In addition to the overall redactions set forth thus far, certain other specific types of redactions have been made from the records prior to public release, for the reasons explained below.

Pursuant to Wis. Stat. § 19.36(8), I redacted the names of law enforcement informants and other information that would identify such informants.

Personally identifying information pertaining to one individual has been redacted from the case file because disclosure of his/her identity would undermine an ongoing criminal investigation and potential prosecution. DCF's investigation remains open and ongoing at this time and releasing identifying information about this individual would adversely impact that ongoing investigation. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. Release of this information could compromise the ability of law enforcement to identify additional witnesses and co-defendants and conduct follow-up interviews and could result in the intimidation of or tampering with potential witnesses. In performing the balancing test, I concluded that the strong public interest in investigating and prosecuting criminal activity, and in protecting the integrity of the current investigation, outweighs any public interest in disclosing the identity of this individual at this time. Wis. Stat. § 19.35(1)(a).

Birthdates and driver's license numbers of individual persons have been redacted to protect against identity theft or other unauthorized use following any subsequent disclosure. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I concluded that the public policy in favor of protecting the confidentiality of this economically valuable individually identifiable information and preventing its misuse upon any subsequent disclosure outweighs any public interest in disclosure of the dates of birth and driver's license numbers of individual persons.

Photographs of driver's licenses have been redacted pursuant to Wis. Stat. § 343.43(1)(f) and Wis. Admin. Code § Trans 102.205.

Home addresses, home telephone numbers and personal cell telephone numbers have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. In performing the balancing test, I determined that the public interest in disclosure of this information is outweighed by the public interest in the expectation of privacy on the part of individuals in their personal lives and in protecting the sources of law enforcement information and in encouraging citizens to cooperate with law enforcement investigators without undue concern that their private lives will become public matters. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 31-32.

Direct telephone numbers assigned to specific law enforcement officers have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test because these numbers are not made public and must remain confidential. In applying the public records balancing test to these phone numbers, I concluded that the strong public interest in effective investigation and prosecution of criminal activity outweighs any public interest in disclosure of these direct telephone numbers of law enforcement officers. Allowing the direct telephone numbers of law enforcement officers to become publicly known would have an adverse effect on the officers' future ability to investigate criminal activity because the phones are used for undercover calls and other investigative business where it is essential to prevent a caller from recognizing the

number as belonging to law enforcement in order to protect the safety of law enforcement personnel, informants and others involved in an investigation. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. General use, publicly available telephone numbers for the law enforcement agencies involved have not been redacted from the records.

Specific information identifying routine shifts worked by law enforcement officers has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test in the interest of preserving the safety of the officers, the officers' families, and the officers' homes. In performing the balancing test, I determined that the public interest in protecting the security of the officers, the officers' families, and the officers' homes outweighs any public interest in information regarding their routine shifts.

Crime Lab records have been redacted pursuant to Wis. Stat. § 165.79(1) and (2), with the exception of Crime Lab records documenting Crime Scene Response Team (CSRT) activity at the scene, which are exempt from the statutory restrictions governing release of Crime Lab analysis documentation. In accordance with Wis. Stat. § 165.79(1) and (2), information present within DCI case reports that discloses what analyses were performed by the Crime Lab and the results of those analyses also has been redacted from the records prior to release.

DCI report number *16-1001/81* documents DCI's receipt of the Preliminary Autopsy Findings for Christopher Davis provided by the Walworth County Medical Examiner's Office. The DCI report has been included with the released records; however, the attached records, provided by the medical examiner's office, have been wholly redacted from the release. Those records were provided to DOJ by the Walworth County Medical Examiner's Office on the condition that the reports would not be shared with any person outside the criminal investigation, and the medical examiner's office would not provide the reports to DOJ without DOJ's agreement to those conditions. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I determined there is a public interest in honoring the conditions under which the medical examiner's reports were provided to DOJ and in cooperating with the medical examiner's office so as to encourage the current and future joint law enforcement efforts of our agencies. To not honor the conditions by disclosing the reports would preclude future record-sharing and significantly impair cooperative law enforcement efforts between DOJ and the Walworth County Medical Examiner's Office. I concluded that the public interest in effective investigation of crime and effective law enforcement, which is furthered by honoring the conditions under which the Walworth County Medical Examiner's Office provided the reports to DOJ, outweighs any public interest in disclosure by DOJ of the report. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. An excerpt from the medical examiner's records, quoted within DCI report number *16-1001/81*, has been redacted for the same reasons. If desired, the medical examiner's records may be requested directly from the Walworth County Medical Examiner's Office records custodian.

The street address for the office of DCI agents who work at a confidential location shared by undercover agents and the street address for the Waukesha County Evidence lot have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test to protect the security of these locations and the safety of these agents and their ability to effectively investigate crime in undercover capacities. I determined that the public interest in protecting the confidentiality of these locations so that undercover agents can effectively investigate criminal activity and so that evidence may be stored in a secure manner, outweighs any public

interest in disclosure of these confidential street addresses. Wis. Stat. § 19.35(1); *Linzmeier*, 254 Wis. 2d 306, ¶ 41.

Specific information that reveals the quantity and location of security cameras employed by private citizens for their residences has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. I determined that the public interest in protecting the security of these individuals and their residences outweighs any public interest in this detailed information regarding these security systems. I also redacted information regarding the manner in which residences and outbuildings were secured or locked, pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. I determined that the right of citizens to be secure in their residences and on their own property outweighs the public interest in this information and release of that information could compromise the security of those individuals and their residences.

The complete cellular telephone download of the phone used by a cooperating individual has been redacted. A portion of that download containing information related to communication with an individual who was with Mr. Davis during this incident has been included with these records. The information contained within the complete download contains the telephone numbers and personal information of individuals wholly unrelated to this investigation, and I determined that the public interest in disclosure of this information is outweighed by the public interest in the expectation of privacy on the part of individuals in their personal lives and in protecting the sources of law enforcement information and in encouraging citizens to cooperate with law enforcement investigators without undue concern that their private lives will become public matters. *Cf. Linzmeier*, 254 Wis. 2d 306, ¶¶ 31-32.

I redacted credit card account numbers from within photos pursuant to Wis. Stat. § 19.36(13).

Information about confidential law enforcement equipment, including specific information regarding technical vehicle specifications, has been redacted to preserve the effectiveness of those confidential techniques and that equipment. I determined that public disclosure would undermine law enforcement's ability to use those techniques and equipment effectively to investigate criminal activity and would threaten the safety of law enforcement officers. I concluded that the public interest in the ability of law enforcement to use those techniques and equipment effectively and in the safety of law enforcement officers outweighs the disclosure of information regarding law enforcement equipment. Wis. Stat. § 19.31; *cf. Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

DCI report number *16-1001/46* addresses a State search warrant executed for the contents of cellular telephones seized during this investigation. The search warrant was issued and subsequently sealed by the Milwaukee County Circuit Court; therefore, the warrant and associated documents have been redacted, as the warrant remains under seal. *See* Wis. Stat. § 19.35(1)(a) ("Except as otherwise provided by law . . .").

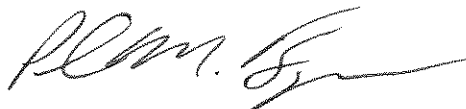
DCI report number *16-1001/35* contains numerous photographs taken during a walk-through of the shooting scene. The photographs were electronically attached to the report, and the first four were saved in a black and white format, while the remainder of the photographs appear in color. The photos appear in the identical manner as they were

attached to the report, and were not manipulated in any way for inclusion in the public records release.

The law permits DOJ to impose fees for certain "actual, necessary and direct" costs associated with responding to public records requests. Wis. Stat. § 19.35(3). Pursuant to Wis. Stat. § 19.35(3)(f), DOJ may require prepayment for the costs of locating (if applicable), copying and mailing the requested records if the total amount exceeds \$5.00. Pursuant to Wis. Stat. § 19.35(3)(e), in this instance, DOJ is waiving its fees, and therefore, the records are being made available online at this time without any payment required.

Pursuant to Wis. Stat. § 19.35(4)(b), this determination is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to a district attorney or the Attorney General.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul M. Ferguson", written in a cursive style.

Paul M. Ferguson  
Assistant Attorney General  
Office of Open Government

PMF:hpw