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DEPARTMENT OF JUSTICE

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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 December 15, 2016 death of Bruce J. Young has been prepared for release.

The DCI case in question is **16-7943: Officer Involved Death Investigation of Bruce Young**. 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 outweighed any legitimate public interest in disclosure of the following information:

- Graphic images of Bruce Young taken at the scene of the incident, both in video and still photo format.
- Autopsy photos of Mr. Young.

- The prior addresses of Mr. Young
- The name of Mr. Young's deceased fiancée has been redacted to initials, and the circumstances and location of her death have also been redacted

In performing the balancing test, I determined that the public interest in protecting the privacy of this family and the family of Mr. Young's deceased fiancée 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 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.

Initials for the names of these individuals have been left unredacted. In the case of family members, if the last name is the same as Mr. Young's, only the first name was redacted to the initial and the last name remains intact. If the last name is different, the first and last names are redacted to the initials.

The names of law enforcement officers and other public employees mentioned in the records are not redacted, except as noted below.

- Other information that would identify the above individuals.

Dates of birth, home addresses, driver's license numbers, personal email addresses, descriptions of residences, home and personal cell telephone numbers, and places and/or hours of work for these individuals have been redacted. In cases where a physical description of the interviewee was provided, that also has been redacted to avoid identification of the subject.

- The names of juveniles have been redacted in their entirety, along with the names and/or locations of their schools.
- Audio/video recordings of witness interviews.

- Portions of audio recordings of unrelated police dispatch communications that could identify subjects or other confidential information, including names, addresses, birthdates, and officer PeopleSoft numbers, regarding unrelated incidents, which occurred contemporaneously.
- Digital image of juvenile.

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 interests in protecting the privacy of these individuals, and in facilitating cooperation with law enforcement in sensitive investigations, also outweigh 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.

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, as well as the public policies outlined in Wis. Stat. §§ 801.19, 801.20 and 801.21, outweigh any public interest in disclosure of this information.

PeopleSoft personnel numbers for Milwaukee Police Department officers, which are analogous to social security numbers or other economically valuable individually identifiable information for these officers, 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 PeopleSoft numbers of individual law enforcement officers.

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. Two exceptions were made. First, the address of the scene where the officer-involved shooting incident occurred has not been redacted because that address has been

widely publicized, and pursuant to the balancing test, I determined that public interest in disclosure of that address outweighs the privacy interests of the resident. Secondly, where investigators conducted interviews of neighbors in the area of the shooting, only the street numbers and/or apartment numbers of those addresses have been redacted because the reports make clear this was a neighborhood canvass of addresses in the vicinity.

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.

Crime Information Bureau (CIB) criminal history records, which are provided to law enforcement personnel only, require certification to access, and are confidential and prohibit secondary dissemination, have been redacted when contained in the investigative file in their original format, and where the *information* contained within those records is provided within the investigative report. Disclosure of such information by DOJ in violation of the prohibition would preclude future information sharing and significantly impair other cooperative law enforcement efforts between DOJ and other law enforcement agencies. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I concluded the public interest in ensuring law enforcement access to CIB criminal history records and in cooperating with other law enforcement agencies outweighs any public interest in disclosure of this information. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39.

Wisconsin Department of Transportation (DOT) files, accessed through the Wisconsin Department of Justice TIME System, which are provided to law enforcement personnel only and require training and certification to access, have been redacted when contained in the investigative file in their original format, and where the information contained within those records is provided within the investigative report. I concluded that disclosure of such information by DOJ would significantly impair future information sharing and other cooperative law enforcement efforts between DOJ and other government agencies. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I concluded the public interest in ensuring law enforcement access to DOT records and in cooperating with other government and law enforcement agencies outweighs any public interest in disclosure of this information. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39; *see also* 18 U.S.C. §2721 et seq.; *New Richmond News v. City of New Richmond*, 2016 WI App 43, 881 N.W.2d 339.

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.

The street address for the office of DCI agents who work at a confidential location shared by undercover agents has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test to protect the safety of these agents and the ability of these agents to effectively investigate crime in undercover capacities. I determined that the public interest in protecting the confidentiality of this location so that undercover agents can effectively investigate criminal activity outweighs any public interest in disclosure of this confidential street address. Wis. Stat. §19.35(1); *Linzmeyer*, 254 Wis. 2d 306, ¶41.

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.

DCI report number **16-7943/13** documents DOJ's observation of the autopsy of Bruce Young, conducted by the Milwaukee County Medical Examiner's Office. The DCI report has been included with the released records; however, medical information contained within that report, provided by the medical examiner's office, has been redacted from the release. The information is preliminary findings by the Medical Examiner, and has not been provided in a final Medical Examiner autopsy report. This information was provided to DOJ by the Milwaukee County Medical Examiner's Office on the condition that the information and subsequent Medical Examiner reports would not be shared with any person outside the criminal investigation, and the medical examiner's office would not provide the information and 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 preliminary findings and reports are 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 preliminary information would preclude future record-sharing and significantly impair cooperative law enforcement efforts between DOJ and the Milwaukee 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 Milwaukee County Medical Examiner's Office provided the preliminary findings to DOJ, outweighs any public interest in disclosure by DOJ of that information. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39.

Personally identifying information related to the identity of informants has been redacted as required by Wis. Stat. §19.36(8). Under Wis. Stat. §19.36(8)(a)1, an informant includes any individual who provides information to law enforcement and either requests confidentiality or is expressly or implicitly promised confidentiality. The authority to delete information related to the identity of the informant also includes the authority to delete any other information that would tend to identify an informant. *See* Wis. Stat. §19.36(8)(b); *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. Release of this information would compromise the ability of law enforcement to identify additional witnesses 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 and associated investigations, outweighs any public interest in releasing the redacted information. Wis. Stat. § 19.35(1)(a).

The DCI investigative file contains numerous reports that address information pertaining to the results of a federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) search warrant executed at property rented by Mr. Young. This information was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. The search warrant was obtained by the ATF and executed as part of their ongoing investigation. As these reports refer to an ongoing investigation of another agency, I concluded that the strong public interest in investigating and prosecuting criminal activity, and in protecting the integrity of the current investigation and associated investigations, outweighs any public interest in releasing the redacted information. Wis. Stat. § 19.35(1)(a); *cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.; *Journal/Sentinel, Inc. v. Aagerup*, 145 Wis. 2d 818, 824-27, 429 N.W.2d 772 (Ct. App. 1988).

The DCI investigative file includes the names and other identifying information of numerous ATF special agents, as well as Task Force Officers from other law enforcement agencies. DOJ consulted with ATF's legal counsel about disclosure of the names of ATF personnel because the ability of DOJ to work effectively with ATF on future law enforcement matters requires us to respect requested confidentiality regarding ATF employees and other identifying information. The ATF advised us that, pursuant to 5 U.S.C. § 552(b)(7)(C), it protects the names of its agents from disclosure because of the nature of their job, which entails a significant threat of retaliatory action against known agents. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. This same protection applies toward officers from other agencies but operating as ATF agents. In performing the Wis. Stat. § 19.35(1) balancing test, I determined that the public interest in effective law enforcement and safety of federal ATF agents outweighs the public interest in disclosure of this information.

Information about confidential law enforcement investigative techniques and equipment, including but not limited to techniques used to obtain evidence, specific covert terminologies, and the license plate number of a federal undercover vehicle, has been redacted to preserve the effectiveness of those confidential techniques, terminologies, and equipment. I determined that public disclosure would undermine law enforcement's ability

to use those techniques and equipment to investigate criminal activity and would threaten the safety of law enforcement officers. I concluded that the public interest in effective investigation and prosecution of criminal activity, including the ability of law enforcement to gather information confidentially when conducting sensitive investigations, and in protecting the safety of law enforcement personnel, outweighs any public interest in disclosure of this information. Wis. Stat. § 19.31; cf. *Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

Specific information that reveals the location of residential security cameras in the vicinity of the officer involved incident 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 residences and the people who live there outweighs any public interest in detailed information regarding the location of these residences' security systems.

Report *16-7943/49* was not used, so it is not included in this production.

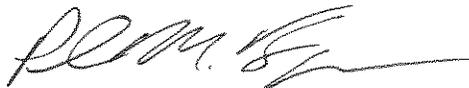
Finally, records wholly unrelated to the investigation which may have been incidentally contained within case information have not been provided, as they have no relationship to the investigation and provide no information related to the investigation.

Only one copy of records for which duplicate copies exist has been included with the records prepared for release. *Stone v. Bd. of Regents*, 2007 WI App 223, ¶ 20, 305 Wis. 2d 679, 741 N.W.2d 774.

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 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,



Paul M. Ferguson  
Assistant Attorney General  
Office of Open Government

PMF: hpw