



## STATE OF WISCONSIN DEPARTMENT OF JUSTICE

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To Whom This May Concern:

On May 19, 2017, in response to public records requests received by the Wisconsin Department of Justice (DOJ) regarding the March 2, 2017 shooting by Marathon County Sheriff's Department Deputy Brandon Stroik, which resulted in the death of John Hall, a copy of the related DOJ Division of Criminal Investigation (DCI) investigative case file, **17-1342: Marathon Co OID - Hall**, as of that date, was made available on DOJ's website at [www.doj.state.wi.us/dci/officer-involved-critical-incident](http://www.doj.state.wi.us/dci/officer-involved-critical-incident). Photographs, audio recordings, and video recordings related to the investigation were also made available at that time.

As noted in my May 19, 2017 letter explaining redactions made from the initial release of records related to this investigation, a small number of records in DCI case file 17-1342 could not be included with the records released at that time because they were restricted in connection with a sealed search warrant. That search warrant has now been unsealed, allowing those restricted records to be made public at this time. Accordingly, you will note that copies of the search warrant as referenced in reports 17-1342/2 and /8, which were not included with the initial website record post, have now been made available as part of a supplemental release of remaining records related to this investigation.

In addition, a small number of new reports were added to the DCI case file following that prior records release, before the file was formally closed. Those additional reports have also been prepared for public release, and this supplemental record release is now available at the DOJ website address shown above.

Certain information has been redacted from this supplemental record release, 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).

Wisconsin Const. art. I, § 9m requires that crime victims be treated with "fairness, dignity and respect for their privacy." Related Wisconsin statutes recognize that this state

constitutional right must be vigorously honored by law enforcement agencies. Wis. Stat. §§ 950.01 and 950.02(4)(a). The Wisconsin Supreme Court, speaking about both Wis. Const. art. I, § 9m, and related victim rights statutes, has instructed that “justice 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. In preparing these records for release, I determined by application of the Wis. Stat. § 19.35(1)(a) balancing test that these public policies requiring that crime victims be treated with respect for their privacy and dignity outweighed any legitimate public interest in disclosure of the name or other personally identifying information for the individual who was present with Mr. Hall in his truck during this incident, believed by officers to be held as a hostage by Mr. Hall. Accordingly, where identifying information regarding this individual is present within DCI case file records, that information has been redacted.

Birthdates 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 of individual persons.

Information contained within the DCI records that was obtained by querying a Wisconsin Department of Transportation (DOT) Division of Motor Vehicles (DMV) database has been redacted pursuant to the federal Driver’s Privacy Protection Act, which prohibits release of this information in response to a public records request. See 18 U.S.C. § 2721 et seq.; *New Richmond News v. City of New Richmond*, 2016 WI App 43, 881 N.W.2d 339.

The home address for Mr. Hall and his wife has 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.

The original order to seal for the search warrant obtained in connection with this case contains a name and address wholly unrelated to this investigation. That name and address have been redacted from the order to seal copy prior to release because it has no relationship to this investigation and provides no information related to this investigation. Included with the supplemental record release is a copy of the amended order to seal, with this error corrected.

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,



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Office of Open Government

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