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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 June 18, 2017 shooting by Waukesha Police Officers Chelsea Coenen and Benjamin Stern, which resulted in the death of William Brewster, has been prepared for release.

The DCI case in question is *17-4130: Waukesha OID – William Brewster*. 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 John 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 official acts of public officers and employees. *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 records:

- Prescription medication information for Mr. Brewster from photos and reports.

Information that specifically identifies medications prescribed for Mr. Brewster has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Well-established public policy recognizing the confidentiality and privacy of personal medical information is expressed in Wis. Stat. §§ 148.81 and 146.82. I find that the

same underlying public policy of protecting the confidentiality and privacy of personal medical information outweighs any public interest in disclosure of the redacted medical information about specific medications prescribed for Mr. Brewster.

- Graphic images of Mr. Brewster from body cam video.

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

The victims' names and other identifying information of the victims has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. 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 and that crime victims include both persons against whom crimes have been committed and the family members of those persons. 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 and their loved ones be treated with respect for their privacy and dignity outweighed any legitimate public interest in disclosure of the following information where present within the DCI case file records:

- Audio recording of the victims' interview.
- Audio of the victims' 911 calls.

Detailed summaries of the 911 calls are included in the DCI reports.

- Victims' radio traffic recordings.
- Victims' license plate numbers and VIN numbers.
- The names, home addresses, and employment information of the victims and the victims' family members.
- Specific information describing the interior of the victims' home, as well as photographs of the interior of the home, where evidence was not collected.

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; *Linzmeier*, 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 police reports.

Initials for the names of these individuals were not redacted. The last name of family members was left unredacted if it was the same as the deceased individual's last name.

- Full names of juveniles interviewed or mentioned by witnesses.

Revealing the names of the children who were interviewed as witnesses is not essential to understanding the information they provided, and other children simply mentioned in the investigative reports were of no relevance to DCI's investigation. Well-established public policy recognizing the confidentiality and privacy of children and juveniles is expressed in Wis. Stat. § 938.396. To the extent the redacted information is not directly governed by that statute, I find that the same underlying public policy of protecting the confidentiality and privacy of children and juveniles outweighs any public interest in disclosure of the redacted information. *See* Wis. Stat. § 938.396.

- Other information that would identify the above individuals including dates of birth, home addresses, home and personal cell telephone numbers, signatures, and the exact location of their homes in relation to the crime scene.
- Audio recordings of witness interviews.
- Audio of 911 callers.

Detailed summaries of the 911 calls are included in the DCI reports.

- Witnesses' places of employment, work hours, and license plate numbers.
- The image of a witness from a crime scene photograph.
- Personal information, photographs, and account information from phone records recovered from a cell phone.

I redacted information of a purely personal nature pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. In performing the balancing test, I determined that the public policy interest in avoiding unnecessary intrusion into the personal lives of individuals and protecting the privacy of these individuals outweighs any legitimate

public interest in disclosure of this information. See Memorandum from J.B. Van Hollen, Attorney General, to Interested Parties (July 28, 2010). Account information was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test as well. Well-established public policy recognizing the confidentiality and privacy of financial identifying information and the protection of economically valuable information from misappropriation or misuse is expressed in Wis. Stat. § 19.36(13). To the extent the redacted information is not directly governed by that statute, I find that the same public interest in protecting financial identifying information from misappropriation or misuse, protecting the confidentiality and privacy of financial identifying information, and protecting the expectation of privacy on the part of individuals in their personal lives applies here. In applying the balancing test, I concluded that the public interest in protecting the confidentiality of this information outweighs any public interest in disclosure.

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. *Linzmeier*, 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.

An individual's bank account number was redacted pursuant to Wis. Stat. § 19.36(13).

Birthdates, social security numbers, 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.

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, 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.

Home addresses and home telephone numbers of law enforcement officers and other public employees have been redacted pursuant to Wis. Stat. § 19.36(10)(a).

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 Laboratory records have been redacted pursuant to Wis. Stat. § 165.79(1) and (2), with the exception of Crime Laboratory records documenting Crime Scene Response Team (CSRT) activity at the scene, which are exempt from the statutory restrictions governing release of Crime Laboratory 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 Laboratory and the results of those analyses also has been redacted from the records prior to release.

Paramedics working with the Waukesha Fire Department responded to the shooting scene to provide medical care for Mr. Brewster. Specific information regarding their assessment and treatment of Mr. Brewster, as observed or reported by the EMS personnel or other witnesses, including in the audio portion of video recordings, has been redacted from the records in accordance with Wis. Stat. §§ 256.15(12) and 146.82(5)(c). To the extent the information is not directly governed by Wis. Stat. §§ 256.15(12) and 146.82(5)(c), in applying the Wis. Stat. § 19.35(1)(a) balancing test, I find that the same underlying public policy of protecting the confidentiality and privacy of personal medical information, as well as the analogous restrictions on release of patient treatment information described under Wis. Stat. § 256.15(12), outweigh any public interest in disclosure of this information.

Copies of Waukesha Fire Department patient care records contained within the DCI case file have been redacted pursuant to Wis. Stat. §§ 256.15(12) and 146.82(5)(c) except for the information authorized for release by Wis. Stat. § 256.15(12)(b). In view of the strong public policy protecting the confidentiality of personal medical information expressed in Wis. Stat. 146.82(5)(c), and in accordance with Wis. Stat. § 256.15(12), excerpts from these reports have also been redacted where present within related DCI case reports. In applying the Wis. Stat. § 19.35(1)(a) balancing test, I find that the same underlying public policy of protecting the confidentiality and privacy of personal medical information, as well as the analogous restrictions on release of patient treatment information described in Wis. Stat. § 256.15(12), outweigh any public interest in disclosure of this information.

In addition, specific information regarding Mr. Brewster's medical condition as observed by law enforcement, has been redacted from the records pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Well-established public policy recognizing the confidentiality and privacy of personal medical information is expressed in Wis. Stat. § 146.82. I find that the same underlying public policy of protecting the confidentiality and privacy of personal health information, as well as the analogous restrictions on release of patient treatment information described under Wis. Stat. § 256.15(12), outweigh any public interest in disclosure of the redacted information.

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. Details regarding the specific shifts worked by the officers involved in the June 18, 2017 shooting incident have not been redacted from the records.

Specific details regarding SWAT team assignments for officers have been redacted to preserve the security and effectiveness of these law enforcement techniques, which would be undermined by disclosure. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I determined that the public interest in effective investigation of crime and protection of public safety, including protecting the ability of law enforcement to respond in emergency situations without jeopardizing officer safety or undermining officer effectiveness by revealing their techniques, outweighs any public interest in disclosure. *Cf.* Wis. Stat. § 19.31; *Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

Information containing specific details regarding weapons assigned to law enforcement personnel has been redacted to preserve the safety, security, and effectiveness of the law enforcement officers. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I determined that the public interest in effective investigation of crime and protection of public safety, including protecting the ability of law enforcement to respond in emergency situations without jeopardizing officer safety or undermining officer effectiveness by revealing their equipment and techniques, outweighs any public interest in disclosure. *Cf.* Wis. Stat. § 19.31; *Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

Login ID information, IP addresses, and passwords for police department personnel also have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test to safeguard the security of law enforcement officers and department personnel. *Cf.* *Linzmeier*, 254 Wis. 2d 306, ¶¶ 25-26, 30, 41. In performing the balancing test, I determined that the public interest in protecting the security of the department's system and records access outweighs any public interest in disclosure of this information.

The exact 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 address. Wis. Stat. § 19.35(1); *Linzmeier*, 254 Wis. 2d 306, ¶ 41.

Information that reveals undercover assignments for local law enforcement personnel has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Disclosure of this information could endanger the safety of the law enforcement personnel. Additionally, providing this information could also jeopardize the operations of undercover personnel who may be functioning in a role in which their true status as an active law enforcement officer is unknown to subjects, targets, witnesses, and others who interact with that undercover officer. Disclosure of the information publicly would reveal a confidential law enforcement technique that would lose its effectiveness if it became public knowledge. I find that the public interest in revealing this information is outweighed by the public interest in effectively investigating and prosecuting criminal activity and in protecting the safety of law enforcement personnel and promoting effective law enforcement investigations. *Cf. Linzmeier*, 254 Wis.2d 306, ¶¶ 30-32, 39, 41.

FBI numbers or information indicating whether or not FBI numbers exist has been redacted pursuant to 28 C.F.R. §§ 20.21(c)(2) and 20.33, because disclosure of the existence or non-existence of FBI numbers impermissibly would indicate the existence or non-existence of federal criminal history.

Additionally, I redacted information originating from the National Law Enforcement Telecommunications System (NLETS) as disclosure of such information outside of authorized users of NLETS is strictly prohibited. NLETS, a private, non-profit corporation owned by the states, is an interstate justice and public safety network used to exchange law enforcement, criminal justice, and public safety-related information. Disclosure of information obtained through NLETS outside of authorized users is strictly prohibited. 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 NLETS member agencies and organizations. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I concluded the public interest in ensuring DOJ's access to NLETS and in cooperating with NLETS member agencies and organizations outweighs any public interest in disclosure of this information. *Cf. Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39.

DCI report number *17-1430/22* documents DOJ's receipt of records, autopsy photographs, and x-rays taken of William Brewster provided by the Waukesha 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 Waukesha County Medical Examiner's Office on the condition that the records would not be shared with any person outside the criminal investigation, and the medical examiner's office would not provide the records 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 records 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 records would preclude future record-sharing and significantly impair cooperative law enforcement efforts between DOJ and the Waukesha 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 Waukesha County Medical Examiner's Office provided the records to DOJ, outweighs any public interest in disclosure. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. Excerpts from the medical examiner's records quoted within DCI reports have been redacted for the same reason. If desired, the medical examiner's records may be requested directly from the Waukesha County Medical Examiner's Office records custodian.

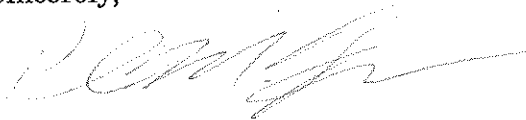
As documented in the DCI case file, squad video recordings from the officers involved in responding to the scene of the officer-involved shooting were collected by DCI for review. The DCI case file contains the body camera footage from Officer Helm that captures the interaction with Mr. Brewster. Due to the time necessary to review and prepare these materials, videos that do not depict the interaction with Mr. Brewster are not included in this release. However, audio from these recordings was prepared for release and is included in the police radio and calls audio. DCI's review of these recordings is summarized in detail in individual reports within the DCI case file. You may request additional materials by specifying what you seek by report number. Any such requests should be made through DOJ's ordinary public records request process and will be processed accordingly.

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 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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