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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 August 21, 2017 shooting by Columbia County Sheriff's Deputy Jordan Haueter, which resulted in the death of Thomas Selje, has been prepared for release.

The DCI case in question is **17-5763: Columbia County Officer Involved Death**. 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:

- Graphic photographs of Thomas Selje at the scene and during his autopsy.
- Graphic images taken at the shooting scene at 416 Vince Street in Pardeeville, and graphic descriptions of Mr. Selje's body contained with scene photographic logs.
- An audio recording of the 911 call placed by Mr. Selje's wife. (A transcript of this call

is included within the DCI case file.)

- Audio content that captures the distress of Mrs. Selje during the incident, as captured within Columbia County Sheriff's Office radio dispatch recordings and the audio portion of responding officers' squad video recordings.
- Audio recordings of two law enforcement interviews with Mrs. Selje. (The contents of those interviews are documented in detail within the related reports.)
- Specific information regarding the location of weapons within Mrs. Selje's home, and security information regarding the home.
- Specific information regarding medical conditions and prescriptions for both Mr. and Mrs. Selje that pertains to their general health status and was not connected with this incident.
- The first names of Mrs. Selje and other Selje family members were reduced to initial only, and for family members with last names other than Selje their names were redacted to initials only. (Mrs. Selje's full first name is redacted within related audio recordings, where it is not possible to leave just the first initial.) The name of Mrs. Selje's juvenile grandson was redacted in full, along with home addresses, personal telephone numbers, and employment information for the family members. Mrs. Selje's signature on a consent form was also redacted, to protect against identity theft or other unauthorized use following any subsequent disclosure.

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 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 and others mentioned by individuals interviewed have been reduced to initials only; the names of juveniles mentioned in the case file have been redacted in full.
- Other information that would identify the above individuals has been redacted, including dates of birth, home addresses, home and personal cellular telephone numbers, vehicle license plate numbers, employment information, and signatures. Within scene diagrams provided by witnesses, labels associating the names of individuals with specific residences have been redacted in full.
- Names and addresses captured by radio dispatch for calls unrelated to this incident have been redacted in full from reports and audio recordings in this case file.
- Personal information mentioned by witnesses that did not pertain to their observations of the officer-involved shooting incident have been redacted to protect the privacy of these cooperating individuals.
- An audio recording of 911 calls from neighborhood witnesses is not being released. (A transcript of this recording is included within the DCI case file.)

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.

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.

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

Home addresses and personal 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.* Wis. Stat. § 19.31; *Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

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

Pursuant to the federal Driver's Privacy Protection Act (DPPA), which prohibits release of personal information and highly restricted personal information in response to a public records request, personal information, as defined in DPPA, contained within the DCI records that was obtained from the Wisconsin Department of Transportation (DOT) Division of Motor Vehicles (DMV) database has been redacted. *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.

Pursuant to Wis. Stat. § 19.36(8), I redacted the name of an individual who cooperated with DCI's investigation in a confidential capacity, and other information that would identify this individual.

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.

Emergency medical services (EMS) personnel responded to the shooting scene to provide medical care for Mr. Selje. Specific information revealing assessment and treatment of Mr. Selje by EMS personnel, including within radio dispatch audio 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. Incidental observations regarding the activity of EMS personnel, as reported by other witnesses at the scene, have not been redacted.

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 August 21, 2017 shooting incident have not been redacted from the records. Details regarding unrelated assignments in which the officers were engaged when called to this incident also have been redacted, in the interest of the officer's safety on returning to those duties, and to prevent any jeopardy to those unrelated,

ongoing law enforcement investigations. In applying the balancing test, I concluded the public interest in disclosure is outweighed by the public interest in preserving officer safety and ensuring effective investigations of crime and effective law enforcement. *Cf. Linzmeyer*, 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; Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

A credential identification number, which is analogous to a social security number or other economically valuable individually identifiable information, has 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 credential identification number.

Information provided to DCI by the Dane County Medical Examiner's Office as documented in DCI's reports has been redacted from the released records. The Dane County Medical Examiner's Office provides its information and records to DOJ on the condition that their records and information will not be shared with any person outside the criminal investigation, and the medical examiners' offices would not provide these materials 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 and information were provided to DOJ, and in cooperating with the medical examiners' 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 and information would preclude future record-sharing and significantly impair cooperative law enforcement efforts between DOJ and the Dane 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 medical examiner's office provided their records and information to DOJ, outweighs any public interest in disclosure by DOJ of the materials provided. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. The Dane County Medical Examiner's Office will be providing final autopsy records to the Columbia County Medical Examiner's Office, as they conducted the autopsy at the request of that office. Therefore, if desired, medical examiner's records related to this investigation may be requested directly from the Columbia County Medical Examiner's Office.

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,

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

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