August 30, 2019

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 May 22, 2019 shooting by United States Marshal Service (USMS) Task Force Officers Alex Jaeger, Emily Krueger, and Jeremy Loesch, which resulted in the death of Joseph Tedrick, has been prepared for release. The Ashland County District Attorney determined there is no basis to prosecute the law enforcement officers involved, and DCI is releasing its case file pursuant to Wis. Stat. § 175.47(5)(b).

The DCI case in question is 19-3220: Ashland OID – Joseph Tedrick. 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. Access to copies of related photographs, audio recordings, and video recordings may be obtained by contacting the DOJ Communications Office at dojcommunications@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 public interest in disclosure of the following records:

- Graphic images in photographs and video of Joseph Tedrick at the crime scene and during his subsequent autopsy, as well as graphic depictions of blood in the vehicle Mr. Tedrick was operating.
• Mr. Tedrick’s driver’s license number.

Mr. Tedrick’s driver’s license number has also 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 the driver’s license number.

• Medical information regarding Mr. Tedrick.

I also redacted medical information regarding Mr. Tedrick 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 and the federal Health Insurance Portability and Accountability Act (HIPAA). 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 this information. See also John K. Maclver Inst. for Pub. Policy, Inc. v. Erpenbach, 2014 WI App 49, ¶ 19 & n.4, 354 Wis. 2d 591, 849 N.W.2d 888 (observing that “[p]ersonal finance or health information” may be subject to redaction as “purely personal” in an email that otherwise is subject to disclosure).

• Contents of Mr. Tedrick’s personnel file obtained from his employer including a new employee hire form, a birth certificate, a Department of Homeland Security (DHS) proof of citizenship form, tax withholding and direct deposit payroll forms, training certificates, a safety acknowledgement form, an employee information change form, and employer human resources records.

These records were also redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. In performing the balancing test, I determined that the public interest in the expectation of privacy on the part of individuals in their personal lives and in protecting against identity theft, as well as the public policies expressed in Wis. Stat. §§ 19.36(10)(a) and (d), outweigh the public interest in disclosure of this information.

Mr. Tedrick’s birth certificate was also redacted pursuant to the limitations of Wis. Stat. §§ 69.20 and 69.21, which only permit the state registrar of vital statistics and local registrars to provide copies of vital records and to disclose information from those records. To the extent that Wis. Stat. §§ 69.20 and 69.21 do not directly apply, the birth certificate has also been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test to protect the privacy of the individual and the individual’s family. Well-established public policy recognizing the confidentiality and privacy of vital records is expressed in Wis. Stat. §§ 69.20 and 69.21. I find that the same underlying public policy of protecting the confidentiality and privacy of vital records and the public interest in the expectation of privacy on the part of individuals in their personal lives outweigh any public interest in disclosure of this information.
The tax withholding and direct deposit payroll forms were also redacted pursuant to Wis. Stat. § 19.36(13). To the extent this information is not directly governed by Wis. Stat. § 19.36(13), these records have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Disclosure of this economically valuable financially identifiable information presents a risk of identity theft, misappropriation, or other unauthorized use following any subsequent disclosure. Additionally, well-established public policies recognizing the confidentiality and privacy of individual’s personal financial information is expressed in other statutes including Wis. Stat. §§ 19.36(13), 801.19, 801.20, and 801.21. In applying the balancing test, I concluded that the same underlying public policy in protecting the confidentiality and privacy of an individual’s economically valuable financially identifiable information and the public interest in preventing its misuse upon any subsequent disclosure outweigh any public interest in disclosure of this information.

A performance evaluation for Mr. Tedrick has been withheld in its entirety pursuant to Wis. Stat. § 19.36(10)(d). To the extent such records and information are not directly governed by Wis. Stat. § 19.36(10)(d), the evaluation has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Well-established public policy recognizing the confidentiality and privacy of an employer’s records containing information relating to staff management planning, including performance evaluations, is expressed in Wis. Stat. § 19.36(10)(d). I find that the same underlying public policy of protecting the confidentiality and privacy of this information outweighs any public interest in disclosure.

- Family photographs located in Mr. Tedrick’s house, vehicle, and on his cell phone.

- Mr. Tedrick’s credit card number.

The credit card number was also redacted pursuant to Wis. Stat. § 19.36(13).

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.

The names and other identifying information of victims have 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 public interest in disclosure of the following information:

- Full name and house numbers as well as specific information describing the exact location of their homes.

- Physical descriptions of the victims from police reports.

- Personal property of the victims in photographs including photographs taken within one of their homes where evidence was collected.

- Images from family photos taken within the victims' homes where evidence was collected.

- Photographs and video of the interior of the victims' homes, where interaction with Mr. Tedrick did not take place.

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 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 were not redacted. The last name of family members was left unredacted if it was the same as the deceased individual's last name. The names of law enforcement officers and other public employees mentioned in the records have not been redacted.

- Full names of juveniles interviewed or mentioned by witnesses.

Additionally, well-established public policy recognizing the confidentiality and privacy of children and juveniles is expressed in Wis. Stat. § 938.396. To the extent such information is not directly governed by Wis. Stat. § 938.396, the information has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Well-established public policy recognizing the confidentiality and privacy of children and juveniles is expressed in Wis. Stat. § 938.396. 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
(“Law enforcement agency records of juveniles may not be open to inspection or their contents disclosed” unless certain exceptions apply).

- Other information that would identify the above individuals including dates of birth, home addresses, home and personal cellular telephone numbers, signatures, the voices of citizen callers from dispatch audio and information regarding work hours and places of employment from reports and photographs.

- Audio recordings of witness interviews.

- License plate numbers and vehicle identification numbers (VIN) of witnesses and victims whose vehicles were located within the area of the incident from reports, photographs, and video.

- Glimpses of the interior of the homes of victims and neighbors, where interaction with Mr. Tedrick did not take place, from photographs and video.

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 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.

Home addresses, home telephone numbers, and personal cellular 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; *Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41. Additionally, well-established public policy recognizing the confidentiality and privacy of the personal contact information of an employer's employees is expressed in Wis. Stat. § 19.36(10)(a). I find that the same underlying public policy of
protecting the confidentiality and privacy of personal contact information outweighs any public interest in disclosure of this information.

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 the driver’s license numbers.

An out-of-state identification card was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Wisconsin identification cards are prohibited from release pursuant to Wis. Stat. § 343.50(8). Well-established public policy recognizing the confidentiality and privacy of identification card information is expressed in Wis. Stat. § 343.50(8). I find that the same underlying public policy of protecting the confidentiality and privacy of an individual’s state identification card and the public interest in the expectation of privacy on the part of individuals in their personal lives outweigh any public interest in disclosure of this information.

Social security 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 the social security numbers.

A security code and personal identification number (PIN) for a witness’s personal cell phone has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test to protect the privacy of this individual and prevent unauthorized use following any subsequent disclosure. Cf. Linzmeyer, 254 Wis. 2d 306, ¶¶ 25-26, 30, 41. Disclosure of this information would provide unauthorized access and be subject to misuse upon any subsequent disclosure. In performing the balancing test, I determined that the public interest in protecting the privacy of this individual and preventing the information from misappropriation, misuse, or other unauthorized access upon any subsequent disclosure outweighs any public interest in disclosure of this information.

Purely personal information regarding victims, witnesses, law enforcement, and their families has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. I determined that the public interest in avoiding unnecessary intrusion into the personal lives of individuals and in protecting the privacy of these individuals outweighs any public interest in disclosure of purely personal information. See Memorandum from J.B. Van Hollen, Attorney General, to Interested Parties (July 28, 2010).

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 telephone 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.

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); 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. Details regarding the specific shifts worked on May 22, 2019 by the officers involved have not been redacted from the records.

Certain information involving confidential law enforcement investigative technology and techniques has been redacted to preserve the effectiveness of that confidential technology and those techniques, which would be undermined by disclosure. Release of this information would threaten the integrity of future law enforcement investigations; would significantly impair the future ability of law enforcement to investigate criminal activity effectively; and would put at risk the safety of the public, law enforcement personnel, informants, witnesses, and others involved in law enforcement investigations. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I concluded that the strong public interest in protecting public safety; in the safety of law enforcement personnel and others involved in law enforcement investigations; in effective investigation and prosecution of criminal activity; and in protecting the ability of law enforcement to use its technology and techniques effectively and gather information confidentially when conducting sensitive investigations outweighs any public interest in disclosure of this information. See Wis. Stat. § 19.31; Linzmeyer, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41; Democratic Party of Wisconsin v. Wisconsin Dep't of Justice, 2016 WI 100, ¶¶ 13, 18, 21, 372 Wis. 2d 460, 888 N.W.2d 584.

The DCI investigative file includes the names, images, and other identifying information of numerous United States Marshal Services (USMS) Task Force agents from the USMS and other law enforcement agencies. DOJ consulted with USMS's legal counsel
about disclosure of the names of Task Force personnel because the ability of DOJ to work effectively with USMS on future law enforcement matters requires us to respect requested confidentiality regarding USMS employees and other identifying information. Pursuant to 5 U.S.C. § 552(b)(7)(C), and (F), the USMS protects the names, images, and other identifying information 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 to officers from other agencies who operate as USMS agents. In performing the Wis. Stat. § 19.35(1)(a) balancing test, I determined that the public interest in effective law enforcement and safety of federal USMS Task Force agents outweighs the public interest in disclosure of this information. The names of USMS Task Force agents that are mentioned as having been directly involved in discharging their weapons in this incident have not been redacted.

Wisconsin State Crime Laboratory records have been redacted pursuant to Wis. Stat. § 165.79(1), 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), 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.

Emergency medical personnel working with the Ashland Fire Department responded to the shooting scene to provide medical care for Mr. Tedrick. Specific information regarding their assessment and treatment of Mr. Tedrick, as observed or reported by the EMS personnel or other witnesses, 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.

Specific information regarding assessments and lifesaving attempts for Mr. Tedrick by law enforcement, as reported by those providing the treatment or other witnesses, 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.

DCI report numbers 19-3220/7, 19-3220/40 and 19-3220/41 document DOJ’s receipt of information and records regarding Joseph Tedrick from the Ashland County Coroner’s Office. These DCI reports have been included with the released records; however, records provided by the Ashland County Coroner’s Office have been wholly redacted from the release. Those records were provided to DOJ by the coroner on the condition that the records would not be shared with any person outside the criminal investigation, and the coroner 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 coroner records were provided to DOJ and in cooperating with the coroner 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 Ashland County Coroner’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 coroner provided the records to DOJ, outweighs any public interest in disclosure by DOJ of the records. Cf. Linzmeyer, 254 Wis. 2d 306, ¶¶ 30, 32, 39. Preliminary autopsy information within DCI report number 19-3220/7 has been redacted for the same reasons. If desired, the records may be requested directly from the Ashland County Coroner’s Office records custodian.

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,

[Signature]

Paul M. Ferguson
Assistant Attorney General
Office of Open Government

PMF:pss