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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 22, 2019 single vehicle crash, which resulted in the death of Forest Springstube, has been prepared for release. The Manitowoc County District Attorney determined there is no basis to prosecute Manitowoc County Sheriff's Deputy Eric M. Roehl, the law enforcement officer involved, and DCI is releasing its case file pursuant to Wis. Stat. § 175.47(5)(b).

The DCI case in question is **19-8159: Two Rivers OID - Forest Springstube**. 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 the DOJ Communications Office at [dojcommunications@doj.state.wi.us](mailto:dojcommunications@doj.state.wi.us).

Certain information was redacted from the records, either because specifically required by law or pursuant to the Wis. Stat. § 19.35(1)(a) public records balancing test. These redactions are described below. In addition, these records were prepared for release mindful 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, the Wis. Stat. § 19.35(1)(a) balancing test was applied, and 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 Mr. Springstube at the incident scene, graphic images in photographs during his subsequent autopsy, and graphic descriptions of Mr. Springstube's injuries and condition from audio recordings and reports.

- Mr. Springstube's personal banking information.

The bank account number, debit card number, member number, Functional Requirement Document American Bankers Association (FRDABA) number, and Payment Account Reference (PAR ID) number related to Mr. Springstube's account 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), this information was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. 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). The same public policies as well as the public interest in protecting financial identifying information from misappropriation or other misuse; protecting the confidentiality and privacy of financial information; and protecting the expectation of privacy on the part of individuals in their personal lives applies here. In applying the balancing test, the public interest in protecting this information, as well as the public policies outlined in Wis. Stat. §§ 801.19, 801.20, and 801.21, outweigh any public interest in disclosure.

- Mr. Springstube's personal cell telephone identification numbers, including the Unit Identifier Number, Integrated Circuit Card Identifier (ICCID), International Mobile Equipment Identity (IMEI), International Mobile Subscriber Identity (IMSI), and Mobile Station International Subscriber Directory Number (MSISDN).

Additionally, this economically valuable individually identifiable information was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test to protect against identity theft or other unauthorized use following any subsequent disclosure. In applying the balancing test, the public interest in protecting this economically valuable individually identifiable information from misappropriation or misuse outweighs any public interest in disclosure.

In performing the balancing test, DOJ 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, ¶¶ 31, 38, 254 Wis.2d 306, 646 N.W.2d 811.

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. Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, these public policies requiring that crime victims be treated with respect for their privacy and dignity outweigh any public interest in disclosure of the full names and other personally identifying information of these individuals where present within DCI case file records.

Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, 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; *Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41. Due to the sensitive and sometimes controversial nature of officer-involved 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 was also redacted from the records:

- Names of adult witnesses, family members, others mentioned by individuals interviewed, and others mentioned in police reports. (First 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 were not redacted.
- Other information that would identify the above individuals, including dates of birth, home addresses, home and personal cellular telephone numbers, physical descriptors, a signature, and information regarding place of employment.
- Names of individuals mentioned in dispatch audio regarding unrelated 911 calls.
- The voice of a citizen from squad camera audio.
- License plate numbers of vehicles in cases unrelated to this incident from dispatch audio and police reports.

Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, 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, 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, ¶¶ 31, 38.

In addition to the overall redactions set forth thus far, certain other specific types of redactions were made from the records prior to release for the reasons explained below.

Birthdates and a driver's license number were redacted to protect against identity theft or other unauthorized use following any subsequent disclosure. Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, 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.

Home addresses, home telephone numbers, and personal cellular telephone numbers for citizens were redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. 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 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. 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). The same underlying public policy of protecting the confidentiality and privacy of personal contact information outweighs any public interest in disclosure of this information.

The photograph of a driver's license was redacted pursuant to Wis. Stat. § 343.43(1)(f) and Wis. Admin. Code § Trans 102.205.

Pursuant to Wis. Stat. § 19.35(1)(a) balancing test, individuals' insurance policy numbers and a union membership number were redacted to protect against misappropriation or other unauthorized use following any subsequent disclosure. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), DOJ concluded that the public policy in favor of protecting the confidentiality of this economically valuable financially identifiable information and preventing its misuse upon any subsequent disclosure outweighs any public interest in disclosure of the numbers.

Law enforcement records of a juvenile were redacted pursuant to Wis. Stat. § 938.396. To the extent such records and information are not directly governed by Wis. Stat. § 938.396, the records and information were 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. 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).

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 and highly restricted 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 was 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.

Emergency medical services (EMS) personnel working with the Two Rivers Fire Department responded to the scene. Specific information regarding their assessment of Mr. Springstube, as observed or reported by the EMS personnel or other witnesses, including in the audio portion of video recordings, was 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), pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, 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 observations of Mr. Springstube by law enforcement, as reported by those on the scene or relayed by other law enforcement from those on the scene including in the audio portion of video recordings, was 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 and the federal Health Insurance Portability and Accountability Act (HIPAA). 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 Officer Roehl's routine work shift was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test in the interest of preserving the safety of the officer, the officer's family, and the officer's home. Information revealing the location of Officer Roehl's education while he was a juvenile was also redacted, for the same reason. In performing the balancing test, the public interest in protecting the security of the officer, the officer's family, and the officer's home outweighs any public interest in information regarding his routine shift or juvenile education location.

As documented in the DCI case file, squad video recordings and body camera recordings from the officer involved and officers that arrived after the incident were collected by DCI for review. Due to space constraints, the large investigatory file, and the time necessary to review this material, duplicative video and video that does not depict scenes of investigatory interest are not included in this release. DCI's review of the recording from the officer involved is documented within the DCI case file and this video is being produced for this release. Additional materials may be requested by specifying the report number. Such requests should be made through DOJ's ordinary public records request channels and will be processed accordingly.

DCI reports document DOJ's receipt of the provisional autopsy report, autopsy photographs, toxicology report, coroner's report, and the final autopsy report for Mr. Springstube provided by the Manitowoc County Coroner's Office. The DCI reports were included with the released records; however, the attached records, provided by the coroner's office, were wholly redacted from the release. Those records were provided to DOJ by the Manitowoc County Coroner's Office on the condition that the reports and photographs would not be shared with any person outside the criminal investigation, and the coroner's office would not provide the reports and photographs to DOJ without DOJ's agreement to those conditions. The records also include Fond du Lac County Medical Examiner's Office records, which, generally, the medical examiner's office provides to DOJ on the same conditions. Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, there is a public interest in honoring the conditions under which the records were provided to DOJ and in cooperating with the

coroner's office and 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 Manitowoc County Coroner's Office and the Fond du Lac County Medical Examiner's Office. The public interest in effective investigation of crime and effective law enforcement, which is furthered by honoring the conditions under which the Manitowoc County Coroner's Office provided the reports and photographs to DOJ, and under which the Fond du Lac County Medical Examiner's Office generally provides the records to DOJ, outweighs any public interest in disclosure by DOJ of the records. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. Excerpts from the coroner's office records, quoted within DCI reports, were redacted for the same reasons. If desired, the coroner's office records may be requested directly from the Manitowoc 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,



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