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July 27, 2015

To Whom This May Concern:

The enclosed records have been prepared in response to numerous public records requests received by the Wisconsin Department of Justice for copies of records related to the investigation conducted by the Division of Criminal Investigation (DCI) into the March 24, 2015 shooting in Fond du Lac which resulted in the deaths of State Trooper Trevor Casper and Steven T. Snyder.

The DCI case number is *15-1570 Fond du Lac OID – Trooper Casper Death Investigation*. That case file has been reviewed in preparation for public release, and a copy of the file has been made available 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).

Certain information has been redacted from the investigative file records as prepared for 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). The public records law is not intended to provide the public with access to information that otherwise would be private or to provide a mechanism to satisfy public curiosity about matters that do not involve the operation of government.

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 policies requiring that surviving loved ones of the deceased be treated with respect for their privacy and dignity outweighed any legitimate public interest in disclosure of graphic information, including:

- Graphic photographs and video recordings taken in the vicinity of the shooting incident that resulted in the deaths of Trooper Casper and Mr. Snyder, which occurred at 136 North

Berger Parkway in Fond du Lac, Wisconsin, and graphic descriptions and details regarding that shooting scene and regarding the deceased at the scene.

- Graphic photographs taken of Trooper Casper and Mr. Snyder during their autopsies.

In applying the balancing test, I found that the privacy interests of the Casper and Snyder families outweigh any public interest in disclosure of this graphic information, and therefore, certain portions of video and photographs have been redacted.

In addition, a few other types of records and information pertaining to surviving family members have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test:

- The full first names of Trooper Casper's parents and sisters have been redacted to protect their privacy, along with their home address. Additionally, the names of Mr. Snyder's girlfriend and ex-wives have been partially redacted – leaving first initials only – to protect their privacy, and the names of Mr. Snyder's children have been redacted in full. I concluded that the public interest favoring protection of surviving family members from unnecessary public attention, possible harassment and unnecessary emotional upset outweighs any public interest in disclosure of this information.
- References to the employment of Mr. Snyder's girlfriend have been redacted. I concluded that the public interest favoring protection of surviving loved ones and their place of employment from unnecessary public attention, possible harassment and unnecessary emotional upset outweighs any public interest in the disclosure of this information.
- Driver's license numbers for Mr. Snyder and other Snyder family members, and an individual account number on a gas card carried by Mr. Snyder at the time of his death, have been redacted to protect against identity theft or other unauthorized use following any subsequent disclosure. I concluded that Mr. Snyder's surviving family members' interest in protecting the confidentiality of this economically valuable individually identifiable information outweighs any public interest in disclosure of these driver's license numbers or Mr. Snyder's individual gas card account number.
- The driver's license number of the woman whose car was stolen from the bank by Mr. Snyder, as well as the license plate number and vehicle identification number for that vehicle, have been redacted to protect the privacy of this victim and her family. 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. Even in those situations in which a criminal prosecution does not occur, it is the policy of our office to protect the privacy rights of those who could be considered victims entitled to these protections when applying the balancing test regarding the release of investigative records. I concluded the public interest favoring protection of the victim from unnecessary public attention, possible harassment and unnecessary emotional upset outweighs any public interest in the disclosure of this information.

- The name of a domestic violence victim has been redacted from a police report included in the DCI case file in order to protect his or her privacy. 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. Even in those situations in which a criminal prosecution does not occur, it is the policy of our office to protect the privacy rights of those who could be considered victims entitled to these protections when applying the balancing test regarding the release of investigative records. I concluded the public interest favoring protection of the victim from unnecessary public attention, possible harassment and unnecessary emotional upset outweighs any public interest in the disclosure of this information.

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 identifying information that could identify witnesses and other individuals referenced by witnesses. *Cf.* Wis. Stat. § 19.31; *Linzmeier v. Forcey*, 2002 WI 84, ¶¶ 30, 32, 39, 41, 254 Wis. 2d 306, 646 N.W.2d 811. Due to the sensitive and sometimes controversial nature of officer-involved shooting incidents, public disclosure of the full names of 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:

- The names of witnesses interviewed during this investigation, and the names of family members, witnesses and other individuals mentioned by others. (First initials of first and last names were not redacted.)
- Other information that would identify these individuals, such as dates of birth, driver's license numbers, addresses and telephone numbers, apartment garage numbers, signatures, places and/or hours of employment, work titles and detailed vehicle information.
- Photographs and video recordings collected as part of this investigation that include images of witnesses or of uninvolved individuals, including children.
- Audio recordings of unrelated police dispatch communications that could identify witnesses, victims or other confidential information, including names and addresses, regarding unrelated incidents, which occurred contemporaneously.
- Photographs depicting the interior of residences of witnesses, release of which could jeopardize the security of those residences and the safety of the people who live there.

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 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 expectation of privacy on the part of individuals in their personal lives and by the public interests 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. Two exceptions were made. First, the address where the shooting occurred, 136 North Berger Parkway in Fond du Lac, has not been redacted because that address has been widely publicized, and pursuant to the balancing

test I determined that public interest in disclosure of that address outweighs the privacy interests of the landlord and tenants of that property. Second, certain apartment buildings near the shooting where investigators conducted interviews of witnesses are identified. However, the apartment letters/numbers for the specific residences of those interviewed have been redacted to protect their privacy interests for the reasons set forth above.

I redacted the home addresses and home telephone numbers of law enforcement officers and other public employees pursuant to Wis. Stat. § 19.36(10)(a). Additionally, I redacted the birthdates of law enforcement officers and other public employees pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. I determined that the public interest in preventing identity theft or other misuse of this economically valuable information outweighs any public interest in its disclosure.

Direct telephone numbers and cell phone 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 interests in effective investigation and prosecution of criminal activity outweigh any public interest in disclosure of these telephone numbers of law enforcement officers. Allowing these telephone numbers of these law enforcement officers to become publicly known would have an adverse effect on the officers' future ability to investigate criminal activity, because these 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 Lab records have been redacted pursuant to Wis. Stat. § 165.79(1) and (2). In accordance with that statute, details of Crime Lab records also have been redacted where present in DCI case reports. In addition to the Crime Lab records and details, I redacted information that would disclose what evidence was submitted to the Crime Lab, analyses performed by the Crime Lab and the results of those analyses.

A firearms trace report provided confidentially to DCI by the federal Bureau of Alcohol, Tobacco, and Firearms ("ATF"), a report obtained from the Federal Bureau of Investigation ("FBI"), Milwaukee Division, Computer Analysis Response Team (CART), and an FBI computer analysis summary report have been wholly redacted where attached to case reports *15-1570/29*, *15-1570/33* and *15-1570/114* respectively. These reports are the property of these two federal law enforcement agencies; they were provided to DCI for its internal use only, with the condition that they are not to be disclosed by DCI. These agencies would not have provided these reports to DCI without DCI's agreement to that condition, and subsequent disclosure by DCI in violation of that condition would preclude future report-

sharing and significantly impair other cooperative law enforcement efforts between DCI and these agencies. Names of FBI agents referenced in DCI case reports also have been redacted at the request of the FBI. 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 reports were provided to DCI and in cooperating with the FBI so as to encourage the current and future joint law enforcement efforts of our agencies. To not honor the conditions or cooperate with the FBI by disclosing these reports would preclude future report-sharing and significantly impair cooperative law enforcement efforts between DCI and federal authorities. I concluded that the public interest in honoring the conditions under which the reports were provided to DCI and in cooperating with the FBI outweighs any public interest in disclosure of these reports by DCI. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39.

I redacted serial numbers of weapons assigned to Wisconsin State Patrol and Fond du Lac Police Department law enforcement personnel, serial numbers for Tasers carried by the officers, information that identifies which specific law enforcement personnel are assigned to Fond du Lac's SWAT team, a law enforcement vehicle identification number and descriptions of specific techniques used by the SWAT team to preserve the security and effectiveness of the law enforcement officers employed by these two agencies. In performing the public records balancing test pursuant to the Wis. Stat. § 19.35(1)(a), I determined that the public interests 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 details of equipment and techniques used, outweighs any public interest in disclosure. *Cf. Wis. Stat. § 19.31; Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

I redacted certain information involving confidential law enforcement investigative techniques and use of technology to preserve the effectiveness of those confidential techniques and technology, which would be undermined by disclosure. Applying the public records balancing test, I determined that the public interest in protecting the ability of law enforcement to gather information confidentially when conducting sensitive investigations and in protecting the privacy of citizens involved in those investigations outweighs any public interest in disclosure. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

Additionally, I redacted content within the reports that reveals specific routine hours worked by law enforcement personnel in the interest of protecting the safety of officers and their families. In performing the public records balancing test pursuant to the Wis. Stat. § 19.35(1)(a), I concluded that revealing specific routine hours worked by law enforcement personnel created a real and likely threat to officers and their families. The public interest in protecting law enforcement personnel and their families and not endangering their safety outweighs the public interest in the disclosure of specific routine hours worked.

Pursuant to Wis. Stat. § 19.36(13) and the § 19.35(1)(a) balancing test, I redacted a portion of surveillance video provided to DCI by a retail store in which a customer input

personal financial information while at a cash register. The statute states, in part, “An authority shall not provide access to personally identifiable information that contains an individual’s account or customer number with a financial institution . . . including checking account numbers, or draft account numbers . . . .” Wis. Stat. § 19.36(13). Additionally, pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, I determined that the public interest in not disclosing financial identifying information outweighed the public interest in disclosing such information. In making this determination, I concluded the risk of fraud or theft that could result from the disclosure of financial identifying information outweighs any public benefit resulting from the disclosure of such information.

A bank alarm number mentioned in the attachment to DCI report number *15-1570/18*, which documents a review of computer logs provided by the Fond du Lac Police Department, also has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. I concluded that release of the bank’s alarm number would endanger the bank’s security and the financial security of the bank’s clients. The public interest in maintaining the financial institution’s security outweighs the public interest in disclosure of the bank alarm number.

DCI report number *15-1570/78* documents the receipt and attempted review of a surveillance video recording provided by Verve Credit Union. As noted in that report, DCI personnel were unable to access the content of the video recording provided by the credit union. However, the DCI agent interviewed the Verve Credit Union facilities manager, who had reviewed the footage prior to attempting to provide a copy to DCI, and contacted another DCI agent who had viewed the footage while at the credit union. The video content of relevance to DCI’s investigation is documented in report number *15-1570/78*. The unplayable video recording provided by Verve Credit Union, as referenced in report number *15-1570/78*, is not included with the records produced for public release. In performing the balancing test pursuant to Wis. Stat. § 19.35(1)(a), I concluded that there was no legitimate public interest in release of the unplayable video.

Emergency medical personnel from Fond du Lac Fire and Rescue responded to the shooting scene to provide medical care for Trooper Casper and Mr. Snyder. Information provided to DCI by these emergency medical personnel have been redacted where present in DCI case reports pursuant to Wis. Stat. §§ 256.15(12) and 146.82(5)(c), except for information authorized for release by Wis. Stat. § 256.15(12)(b).

DCI report numbers *15-1570/9*, *15-1570/11*, *15-1570/93* and *15-1570/101* document DCI’s receipt of the autopsy and toxicology records for Trooper Casper and Mr. Snyder, provided by the Fond du Lac County Medical Examiner’s office. The DCI reports have 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 DCI by the Fond du Lac County Medical Examiner’s Office on the condition that the reports would not be shared with any person outside the criminal investigation, and the medical examiner’s office would not provide the reports to DCI without DCI’s agreement to

those conditions. Disclosure of these records by DCI in violation of those conditions would preclude future report-sharing and significantly impair cooperative law enforcement efforts between DCI and the Fond du Lac County Medical Examiner's Office. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I concluded that the public interest in honoring the conditions under which the medical examiner's records were provided to DCI, so as to encourage the current and future joint law enforcement efforts of our agencies, outweighs any public interest in disclosure by DCI of these records. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. An excerpt from the medical examiner's records, quoted within DCI reports *15-1570/9*, *15-1570/11*, *15-1570/93* and *15-1570/101*, also have been redacted for the same reasons. If desired, the medical examiner's records may be requested directly from the Fond du Lac County Medical Examiner's Office records custodian.

DCI reports numbered *15-1570/3*, *15/1570/4* and *15-1570/20* document DCI's receipt and review of Fond Du Lac Police Department dispatch/radio calls and telephone calls and radio traffic from the Wisconsin State Patrol Communication Center. Audio records for these materials were provided to DCI, and DCI's review of the audio records is documented in these three reports. The DCI agent has included transcripts of the content of these audio recordings in the related DCI reports, and those reports and related transcripts are included in the public release, with minimal redactions made as described elsewhere in this letter. Considering that the relevant information from the audio format records was included by DCI agents in their related case reports, which can be reviewed and redacted as necessary for public release much more quickly than audio records, the audio records have not been prepared for public release at this time. Should you wish to request copies of the related audio records for these three reports, please contact me and specify which of those you would like to receive, and we will then proceed with the necessary redaction and preparation. Please be advised, however, that a significant amount of time may be required to conduct that further review, with little prospect that those records would contain any additional information of relevance to this investigation not already captured in the related written reports.

Some reports, including correspondence that requires notice pursuant to Wis. Stat. § 19.356(2)(a)2, are not ready for release. The Department of Justice will provide said reports when the notice procedure is complete and the reports are prepared.

Finally, it should be noted that only one copy of records for which duplicate copies exist has been included in the records prepared for public release. *Stone v. Bd. of Regents*, 2007 WI App 223, ¶ 20, 305 N.W.2d 679, 741 N.W.2d 774.

The Department of Justice normally charges \$0.14 per page and \$1.00 per disc for duplication of records provided in electronic format in response to public records requests. Under Wis. Stat. § 19.35(3)(f), the Department is authorized to require prepayment by a requester of records of any fee or fees imposed if the total amount exceeds \$5.00. In this instance, however, our normal fees are being waived, 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

PMF:djw