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To Whom This May Concern:

The enclosed records have been prepared in response to 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 6, 2015 shooting by Milwaukee Police Officer Joshua Duman that resulted in the death of Tyrone Lawrence.

The DCI case in question is **15-1174: OID-Milwaukee PD - 468 E. Plainfield Ave.** The 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 records prepared for release, either because specifically required by law or pursuant to the Wis. Stat. §19.35(12)(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 act of public officers and employees in their official capacities. *Building and Constr. Trades Council v. Waunakee Comm. Sch. Dist.*, 221 Wis. 2<sup>nd</sup> 575, 582, 585 N. W. 2<sup>nd</sup> 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 family. *Cf. National Archives and Records Admin. V. Favish*, 541 U.S. 157, 168, 171-172 (2004). 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.

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 the following information:

- Graphic photographs taken of Tyrone Lawrence during his autopsy
- Graphic photographs taken at the scene of the shooting at 468 E. Plainfield Ave.
- Graphic photographs taken of the injuries to the wife of Tyrone Lawrence
- Personal information pertaining to Mr. Lawrence and his family members, as well as the names of children mentioned in the investigative reports, which were of no relevance to DCI's investigation

In applying the balancing test, I found that the privacy interests of Mr. Lawrence's surviving loved ones outweigh any public interest in disclosure of the graphic information described above, and therefore, these photographic records and personal information have been redacted.

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 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 v. Forcey*, 2002 WI 84, ¶¶ 31-32, 254 Wis. 2d 306, 646 N.W.2d 811.

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 have also been redacted where present in DCI case reports.

Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, a written agreement between the DCI and the Milwaukee County Office of the Medical Examiner, and in view of the strong public policies protecting the confidentiality of personal medical history information and the privacy rights of a deceased person's loved ones, I have determined to not release any of the Medical Examiner autopsy report of Mr. Lawrence. In considering whether to release the report, I have weighed the existence of any reasonable public interest in disclosure of this information against the privacy rights of Mr. Lawrence's surviving family members. *Cf. National Archives and Records Admin. V. Favish*, 541 U.S. 157, 168, 171-172 (2004). I have also considered the public policy interests in the non-disclosure of personal health information reflected in Wis. Stat §146.82, and the need to maintain inter-agency cooperation in light of specific document release agreements. The Milwaukee County Office of the

Medical Examiner (ME) provides its autopsy protocols and laboratory reports to DCI for prosecution purposes only, on the condition that those reports remain the property of the ME Office and may not be redistributed outside DCI without express authorization from the ME Office. The unauthorized disclosure by DCI would impair DCI's future ability to obtain autopsy information from the ME. I have concluded that the public interest protecting 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.

The names of witnesses interviewed have been redacted with the exception of the first initial of first and last names. Applying the public records balancing test, I have determined 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 identifying information regarding the witnesses and other individuals mentioned. Wis. Stat § 19.31, *Cf. Linzmeyer*, 254 Wis. 2d 306 ¶¶ 30, 32, 39, 41. Specifically, due to the sensitive and sometimes controversial or volatile nature of these types of incidents, if the names of witnesses were disclosed publicly, they could be subjected to unwanted public scrutiny, criticism, or pressure from outside sources. This could have a chilling effect on future witnesses' willingness to come forward and cooperate with law enforcement in the investigation of these matters.

Specific information and photographs that describe/identify the model, manufacturer, serial numbers, number of rounds carried, and capacity of weapons used by the Milwaukee Police Officer(s) involved has been redacted. Additionally, information identifying specific shifts and days that officers work has been redacted. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I determined that the public policies favoring 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, outweighs any public interest in disclosure. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

Photographs and diagrams of the interior of the residence, which have no relevance to the investigation and the release of which could jeopardize the security of the residence and the safety of the people who live there, have been redacted from the publicly available record.

Audio/Video recordings of recorded interviews of witnesses and victims are not being provided. The information obtained from those recorded interviews is thoroughly summarized in the narrative written reports which are being provided to you. I applied the same balancing test rationale that I used to determine that I was redacting the names of witnesses. Furthermore, if the voice and video recordings of interviews were disclosed publicly, potentially allowing the identification of those witnesses whose names we have chosen to protect, those witnesses could be subjected to unwanted public scrutiny, criticism, or pressure from outside sources. This could have a chilling effect on future witnesses' willingness to come forward and cooperate with law enforcement in the investigation of these matters.

DCI case report **15-1174/24** documents the submission of the phone belonging to the wife of the deceased for a digital forensic examination. This information was received in the form of a 501 page comprehensive PDF, and is referenced in case report **15-1174/30**. This information has been redacted and provided in part as an attachment to the case report. Text messages in this record that do not pertain to the investigation have been redacted because they are not relevant to this investigation and release of this otherwise personal information would infringe upon the privacy rights of the family of the deceased.

Additionally, personal emails and email addresses, photographs, personal telephone call logs, and social media activity have been redacted as they are unrelated to the investigation and also personal in nature.

The Department of Justice normally charges \$.15 per page and \$1.00 per disc for duplication of records provided in response to public records requests. 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,



Paul M. Ferguson  
Assistant Attorney General  
Office of Open Government

PMF:hpw