



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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Josh Kaul  
Attorney General

17 W. Main Street  
P.O. Box 7857  
Madison, WI 53707-7857  
[www.doj.state.wi.us](http://www.doj.state.wi.us)

Paul M. Ferguson  
Assistant Attorney General  
[fergusonpm@doj.state.wi.us](mailto:fergusonpm@doj.state.wi.us)  
608/266-1221  
TTY 1-800-947-3529  
FAX 608/267-2779

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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 June 16, 2023 shooting incident, involving Vernon County Sheriff's Deputy Jonathon Brown, resulting in the death of William Boardman was prepared for release. The Vernon 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 **23-4795 - Vernon County OI**. That investigative case file was reviewed in preparation for public release, and a copy of the investigative case file records 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).

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) public records 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. Boardman at the incident scene as well as graphic descriptions in audio recordings and reports of Mr. Boardman's injuries and the aid provided to him.

In performing the balancing test, 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.

Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, DOJ 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 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 critical 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 redacted from the records prepared for release:

- Names of adult witnesses, family members, and others mentioned by individuals interviewed. 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, license plate numbers, and VINs.
- Full names of juveniles mentioned. Additionally, well-established public policy recognizing the confidentiality and privacy of children and juveniles is expressed in Wis. Stat. §§ 48.396 and 938.396. DOJ finds 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. § 48.396* ("Law enforcement officers' records of children . . . shall not be open to inspection or their contents disclosed" unless certain exceptions apply); *Wis. Stat. § 938.396* ("Law enforcement agency records of juveniles may not be open to inspection or their contents disclosed" unless certain exceptions apply).
- Voices from audio and video recordings and images from video recordings.

Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, DOJ 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, DOJ 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 were made from the records prior to release for the reasons explained below.

Birthdates of individual persons 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, DOJ determined 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 dates of birth.

Home addresses, home telephone numbers, personal electronic mail addresses, and personal cellular telephone numbers were redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. DOJ 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 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). DOJ determined 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.

Information of a purely personal nature, including medical information and a personal telephone account number, was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. DOJ determined that the public interest in avoiding unnecessary intrusion into the personal lives of individuals and protecting the privacy of these individuals outweighs any public interest in disclosure of this information. *See* Memorandum from J.B. Van Hollen, Attorney General, to Interested Parties (July 28, 2010). Also, regarding medical information, 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). DOJ determined that the same underlying public policy of protecting the confidentiality and privacy of personal medical information outweighs any public interest in disclosure of the redacted information. *See also John K. MacIver 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).

A personal telephone account number was 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 to protect against identity theft or other unauthorized use following any subsequent disclosure. The public interest in protecting this kind of economically valuable information from misappropriation or misuse is recognized in Wis. Stat. § 19.36(13), which prohibits disclosure of financial identifying information of individuals. The same public interest in protecting financial identifying information from misappropriation or other misuse applies here. Therefore, DOJ determined that the public interest in protecting this economically valuable information from misappropriation or misuse outweighs any public interest in disclosure.

Details regarding the computer path to investigative materials produced by the Wisconsin State Patrol (WSP) was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing

test. Release of this information could expose the work product of the WSP, DOJ, and the agencies' law enforcement agents, officers, and other personnel to the risk of loss, destruction, or manipulation. Additionally, the digital information includes private information of investigative targets and other third parties. For these reasons, the disclosure of the redacted information could compromise the integrity of the DOJ and local law enforcement agencies' investigation and individuals' privacy information. The public interest in protecting the security of the investigation and individuals, the integrity and confidentiality of the data stored therein, and in ensuring that government can operate safely and effectively without disruption and unnecessary interruption outweighs any public interest in disclosure of this information. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 31, 38; *Democratic Party of Wisconsin v. Wisconsin Dep't of Justice*, 2016 WI 100, ¶¶ 13, 18-19, 21, 372 Wis. 2d 460, 888 N.W.2d 584.

Pursuant to the federal Driver's Privacy Protection Act (DPPA), which, generally, 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 DOJ records that was obtained from the 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, 370 Wis. 2d 75, 881 N.W.2d 339.

Direct telephone numbers assigned to specific law enforcement officers were redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test because these numbers are not made public and must remain confidential. DOJ determined 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 the law enforcement officers. Allowing the direct telephone numbers of the 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 were not redacted from the records.

Crime Laboratory records were redacted pursuant to Wis. Stat. § 165.79(1). 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 were redacted from the records prior to release.

Emergency medical services (EMS) personnel working with the Genoa-Harmony Fire Department were dispatched to the incident scene to provide medical care for Mr. Boardman. Specific information regarding their assessment and treatment of Mr. Boardman, as observed or reported by the EMS personnel or other witnesses, including in the audio portion of dispatch and 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, DOJ determined 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.

DCI report number 23-4795/27 documents receipt of a copy of the Genoa-Harmony Fire Department and EMS run sheets and Pre-Hospital Care Report. These EMS reports, and excerpts from these reports were present within the DCI case report, was redacted pursuant to Wis. Stat. §§ 256.15(12) and 146.82(5)(c), except for the information authorized for release by Wis. Stat. § 256.15(12)(b). Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, DOJ determined 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 observations, assessments, and descriptions of aid provided by law enforcement regarding Mr. Boardman, 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 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 HIPAA. DOJ determined 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.

Specific information identifying routine shifts worked by law enforcement officers and EMS personnel was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test in the interest of preserving the safety of the officers, their families, and their homes. DOJ determined that the public interest in protecting the security of the officers, their families, and their homes outweighs any public interest in information regarding their routine shifts. Details regarding the specific shifts worked by the officers involved on June 16, 2023, the day of the shooting incident, and EMS personnel from the same day, were not redacted from the records.

The names of law enforcement officers who operated Unmanned Aerial Vehicles (UAV), which could be used to obtain individually identifiable information about these officers, were 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), DOJ determined that the public policy in favor of protecting the confidentiality of this individually identifiable information and preventing its misuse upon any subsequent disclosure outweighs any public interest in disclosure of this information.

Specific details regarding weapons assigned to law enforcement personnel and details of investigative techniques, were redacted to preserve the security and effectiveness of these law enforcement techniques and technology and the safety, security, and effectiveness of the law enforcement officers. Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, 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; *Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.

As documented in the DCI case file, Dairyland Power Cooperative surveillance video, Genoa Highway Garage surveillance videos, body camera recordings, and squad car camera recordings from the officers who responded to the scene of the officer-involved critical incident were collected by DCI for review. The DCI case file contains body camera and squad camera footage from the Vernon County Sheriff's Office. Some of the body camera and squad camera videos capture the interaction with Mr. Boardman. These were prepared for release as well as the dispatch audio, the Genoa Highway Garage surveillance video, and the Dairyland Power Cooperative surveillance video. Due to the time necessary to review and prepare these materials, the other videos mentioned in this report are not included in this release. DCI's review of all of these recordings is summarized in individual reports within the DCI case file. Additional materials may be requested by specifying the report number. Such requests should be made through the ordinary public records request process and will be processed accordingly.

DCI report numbers 23-4795/23 and 23-4795/32 document DOJ's receipt of documents, toxicology results, and preliminary autopsy findings provided by the University of Wisconsin (UW) School of Medicine and Public Health. The DCI report was included with the released records; however, the attached documents, toxicology results, and preliminary findings provided by the UW School of Medicine and Public Health, were wholly redacted from the release. The documents, toxicology results, and preliminary findings were provided to DOJ by the UW School of Medicine and Public Health on the condition that the documents, toxicology results, and preliminary findings would not be shared with any person outside the criminal investigation, and the UW School of Medicine and Public Health would not provide the documents, toxicology results, and preliminary autopsy findings to DOJ without DOJ's agreement to those conditions. Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, DOJ determined that there is a public interest in honoring the conditions under which the UW School of Medicine and Public Health documents, toxicology results, and preliminary autopsy findings were provided to DOJ and in cooperating with the UW School of Medicine and Public Health so as to encourage the current and future joint law enforcement efforts of our agencies. To not honor the conditions by disclosing the documents, toxicology results, and preliminary autopsy findings would preclude future record-sharing and significantly impair cooperative law enforcement efforts between DOJ and the UW School of Medicine and Public Health. Therefore, DOJ determined that the public interest in effective investigation of crime and effective law enforcement, which is furthered by honoring the conditions under which the UW School of Medicine and Public Health provided the documents, toxicology results, and preliminary autopsy findings to DOJ, outweighs any public interest in disclosure by DOJ of the documents, toxicology results, and preliminary autopsy findings. *Cf.* *Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39. Information from the UW School of Medicine and Public Health documented in DCI report number 23-4795/23 and 23-4795/32 was redacted for the same reasons. If desired, records from the UW School of Medicine and Public Health may be requested directly from the UW School of Medicine and Public Health 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 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

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Enclosure