



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

BRAD D. SCHIMMEL  
ATTORNEY GENERAL

Andrew C. Cook  
Deputy Attorney General

17 W. Main Street  
P.O. Box 7857  
Madison, WI 53707-7857  
www.doj.state.wi.us

Kevin C. Potter  
Deputy Administrator  
Division of Legal Services  
Public Records Custodian  
potterke@doj.state.wi.us  
608/266-0929  
TTY 1-800-947-3529  
FAX 608/266-1656

May 12, 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 6, 2015 shooting by Madison (Wisconsin) Police Officer Matthew Kenny that resulted in the death of Tony T. Robinson, Jr.

The DCI case in question is *15-1188: Madison PD OIS – Williamson St.* 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 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 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 the following information:

- Graphic photographs taken of Tony Robinson while he was being treated at UW Hospital and during his subsequent autopsy

- Bloodstained records (MGE envelope as documented in report *15-1188/1* and TracFone records documented in *15-1188/38*) that were removed from Mr. Robinson's person
- Graphic photographs taken at the scene of the shooting at 1125 Williamson Street
- Graphic details of Mr. Robinson's injuries as described during witness interviews

In applying the balancing test, I found that the privacy interests of Mr. Robinson's surviving loved ones outweigh any public interest in disclosure of this graphic information, and therefore certain narrative portions of reports prepared for public release in this case have been redacted from the response accordingly, along with certain video and photographic records.

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:

- Names of victims, family members, witnesses and other people mentioned by these individuals, with the exception of Mr. Robinson. (First initials of first and last names were not redacted.)
- Other information that would identify these individuals, such as dates of birth, addresses and telephone numbers, employment or grade in school, and detailed vehicle information.
- Audio recordings of witness interviews, which reveal the voices of the witnesses and could be used as a means of identifying specific individuals.
- Photographs taken of specific victims and witnesses during this investigation, and photographs and diagrams depicting the interior of witnesses' residences, release of which could jeopardize the security of these residences and the safety of the people who live there. (A small number of photographs of the staircase inside the residence at 1125 Williamson Street, which do not include any graphic content, were left unredacted because it was determined the public interest in these photos of the scene outweighs the privacy and security concerns of exposing this small area of the residence, which does not include any views of the private living quarters.)

- Content describing the emotions of one witness on learning of the death of his friend, Mr. Robinson, which was described by the officer who was interviewing that witness at the time, has been redacted out of respect for the privacy of that witness. Similarly, specifics regarding the suicide of a friend referenced by several of the young people interviewed in this case were redacted to protect the privacy of that individual and the individual's surviving family members.

A small number of exceptions to the general redactions related to witnesses as described above were made pursuant to the balancing test. Where the individual interviewed or mentioned is a public official, the names were still redacted except for initials, to provide the individuals with a degree of privacy; however, references to the individuals' public employment were not redacted. Where employees of the gas station and the restaurant across the street from the shooting scene were interviewed, their employment information was not redacted because their employment was the reason for the interview; however, the full names of these individuals were redacted from the records instead, to protect their privacy. Where maps and other records include license plate information without identifying a specific related individual, this vehicle description information has been redacted to prevent identification of witnesses and exposure of these individuals to unwanted public scrutiny.

DCI agents obtained three search warrants in connection with this investigation, covering the scene of the shooting at 1125 Williamson Street and cell phones seized from Tony Robinson's pocket and from a witness connected with the investigation. All three search warrants were sealed for the duration of the investigation; however, arrangements were made to have those seals expire upon conclusion of the district attorney's review of this matter, and an announcement of his prosecutorial decision in the case. Therefore, release of the records related to the three search warrants is no longer restricted by the search warrant seals, and related records have been included in the release, with one exception.

Pursuant to the search warrant, the contents of the witness's cell phone were acquired by the assigned DCI analyst, as documented in DCI reports numbered *15-1188/18* and *15-1188/125*. Subsequently, a DCI agent reviewed the cell phone contents pursuant to the search warrant, including contact names and text messages for the specified period related to the shooting death of Mr. Robinson. That records examination is documented in DCI report number *15-1188/133*, and the reviewing agent included copies of the contents of those portions of the cell phone's contacts section and text messages that he reviewed within his report. In preparing this report for release, I 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 who become involved in those investigations, outweighs any legitimate public interest in disclosure of the private contacts list and text messages obtained from this witness. *Cf. Wis. Stat. § 19.31; Linzmeyer, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41.* Again, due to the sensitive and sometimes controversial nature of officer-involved shooting incidents, public disclosure of personal records obtained from cooperating witnesses 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.

Specific information that describes the make, model, capacity and serial numbers of weapons assigned to Madison Police Department law enforcement personnel, as well as the number of rounds carried by officers, specific details regarding the locations where weapons are stored, and information that identifies which personnel are assigned to specific positions on Madison's SWAT team have been redacted to preserve the security and effectiveness of the law enforcement officers. In performing the public records balancing test pursuant to 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 their equipment and techniques, outweighs any public interest in disclosure. *Cf.* Wis. Stat. § 19.31; *Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41. Content within the reports that reveals the location, retrieval process and make, model and serial number of the squad video hard drives contained within the officers' vehicles also has been redacted for the same reasons.

Some of our agents' narrative reports prepared for release to the public in redacted form correspond to records in more complicated original formats that have not been prepared for release at this time. Relevant information from the original format records was included by our agents in their case reports, which can be reviewed and redacted as necessary more quickly than the original format records. Rather than delay release of our case file to perform those more complicated, time-consuming reviews and redactions of duplicative original format records, we have prepared our agents' corresponding narrative reports and transcripts for release at this time.

The following portions of the files prepared for release to you involve original format records not prepared for release at this time, for the reasons explained above.

DCI case reports *15-1188/11* and *15-1188/19* document the receipt of video recordings and photographs related to this investigation that were taken by witnesses and provided to DCI. The content of these photographs and brief video recordings are documented in the related reports.

DCI case report *15-1188/28* documents the receipt of video surveillance recordings provided to DCI by the gas station across from 1125 Williamson Street for a four-hour time period surrounding the shooting incident. Report number *15-1188/106*, which documents DCI's review of these recordings, includes specific details regarding those portions of these video recordings that were of interest in connection with DCI's investigation.

DCI case reports *15-1188/42* and *15-1188/138* document video recordings and photographs taken by the Madison Police Department and the Crime Scene Response team related to examination of the scene at 1125 Williamson Street. These scene examinations are documented in detail in these two reports.

Case reports *15-1188/40* and *15-1188/45* document interviews of Officer Kenny and Officer Christian, respectively. Both of these interviews were audio recorded; redacted versions of these two audio recordings have not been prepared for release at this time. These interviews were thoroughly summarized in the narrative portion of the related reports, and those reports are included with the records produced for release with minimal redactions made. In addition, DCI prepared a transcript of the audio recording of the interview with Officer Kenny, and that transcript is included for release with report number *15-1188/146*, again with only minimal redactions made for reasons set forth elsewhere in this letter. In addition, some minimal information provided by Officer Kenny during this interview, regarding his family pet, was redacted pursuant to the public records balancing test to protect the privacy of the officer's family.

DCI case report *15-1198/73* documents receipt by DCI of squad video recordings obtained from the vehicles operated by Officer Matt Kenny, Officer John Christian and Sergeant Jamar Gary on the evening of March 6, 2015. That report and DCI reports numbered *15-1198/74* and */75* document DCI's review of these recordings, along with review of an enhanced version of the audio recording obtained from Sergeant Gary's squad car, as documented in report *15-1188/74*. The squad video recordings obtained from Officer Kenny's vehicle do not contain any audio, and therefore, as documented in DCI report number *15-1188/109*, a DCI analyst was assigned to create a review copy of the squad recordings that synced the enhanced audio content from Sergeant Gary's squad with the video content from Officer Kenny's squad, and a review of this newly-created record is documented in DCI report number *15-1188/115*. Transcripts of the portions of these recordings that were of interest to DCI's investigators are included within the narrative portions of the DCI reports numbered *15-1188/73*, *15-1188/74* and *15-1188/75*.

DCI case report *15-1188/93* documents receipt and review by our agent of audio recordings capturing radio dispatch communications for the time period surrounding the shooting incident on March 6, 2015, as well as audio recordings of five 911 calls received by the Dane County Public Safety Communication Center during that time period, along with transcripts of those audio recordings that had been prepared by the Madison Police Department. These recordings would require substantial redactions before they could be released to the public, to protect the identity of witnesses for the reasons set forth above. The DCI agent's review of these audio recordings confirmed the accuracy of the transcripts as prepared, and copies of the transcripts are included with DCI report *15-1188/93*.

Attached to DCI case report *15-1188/149* is a copy of Madison Police Department reports related to the shooting incident which were provided to DCI for review in connection with DCI's investigation. It should be noted that some of these Madison Police Department records are referenced in and attached to other DCI investigative reports, where relevant; nonetheless, the full report copy as provided to DCI by the Madison Police Department is included again with report *15-1188/149*, for clarity, with just one exception. These Madison Police Department records included a printout of Mobile Digital Computer ("MDC") transmissions for Officer Kenny from March 6, 2015, as documented in Madison police report number 087. The majority of these MDC records pertain to Officer Kenny's work assignments

earlier in the day on March 6, 2015, and relate to local law enforcement activity unconnected with the events that are the subject of DCI's investigation *15-1188*. A copy of a page containing a text message exchange, which is referenced in the reviewing officer's report, is included with the Madison Police Department records attached to DCI report number *15-1188/149*, as is the first page of the other referenced print log and all pages from within that log that contain information from the time period surrounding the shooting. The remaining pages, which contain information formatted and coded in ways that will be difficult for most readers to understand, and which was of no relevance to the DCI investigation, has been redacted from the release because it does not disclose any information pertinent to DCI's investigation. Witness names and other information within the released pages that would identify witnesses have been redacted from the MDC transmission pages being released for the reasons set forth elsewhere in this letter. An access pass code assigned to Officer Kenny also has been redacted from the MDC transmission pages being released to protect the security of the MDC system, which would be compromised by public disclosure of this information. Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, therefore, I have determined that the public interests in protecting the security of this police communication system outweighs any public interest in disclosure of the officer's pass code. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 25-26, 30, 41.

Similarly, some of the photographs referenced within this investigative file have been identified for redaction from any public release of the file for the reasons set forth elsewhere in this letter. Other photographs may be made available for public release upon further review, in response to specific requests. Should you wish to request copies of specific photographs referenced within DCI reports, please provide me with a public records request detailing which records you seek, so that we can initiate a review of those records and provide you with a response to your specific request.

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, Social Security numbers and driver's license numbers of individual persons have been redacted to protect against identity theft or other unauthorized use following any redisclosure. 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 redisclosure outweighs any public interest in disclosure of the dates of birth, Social Security numbers or driver's license numbers of individual persons. Photographs taken of an individual Social Security card, as referenced in case reports, also have been redacted for the same reason. Birthdates of law enforcement officers and other public employees have been redacted pursuant to Wis. Stat. § 19.36(10)(a).

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, at 1125 Williamson Street, has not been redacted because that address has been widely publicized, and pursuant to the balancing test I have determined that public interest in disclosure of that address outweighs the privacy interests of the landlord and tenants of that property. Secondly, where investigators conducted interviews of neighbors up and down the street in the area of the shooting, only street numbers and apartment numbers of those interviewed have been redacted, because the reports make clear this was a neighborhood canvass of addresses on Williamson Street. Where investigators spoke with people at business addresses, the street number is not redacted.

The non-public direct desk and cell telephone numbers assigned to DCI special agents have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test because these numbers must remain confidential for purposes of effective law enforcement. In applying the public records balancing test to these phone numbers, I concluded that the strong public policies favoring effective investigation and prosecution of criminal activity outweigh any public interest in disclosure of these direct telephone numbers of law enforcement officers. Allowing these non-public law enforcement telephone numbers to become publicly known would have an adverse effect on DCI's 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, 41. General use, publicly available law enforcement telephone numbers have not been redacted from the records.

Similarly, the non-public direct and cell telephone numbers for police and fire department personnel and emergency medical personnel who responded to the scene in connection with the events in question have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Given the availability of public numbers for these personnel, I have determined that public policy favoring effective protection of public safety and effective emergency response capacity outweighs any public interest in disclosure of individual direct and cell telephone numbers, in order to prevent unnecessary interruption of these persons and disruption of their important official responsibilities if their non-public direct and cell telephone numbers were to become public.

The non-public direct telephone numbers for an attorney with the University of Wisconsin and for an employee of the Dane County Medical Examiner's office also have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. The general office numbers for these employees are publicly available. I therefore have determined that the public policy of facilitating efficient and effective work by public employees is furthered by preventing unnecessary interruption and disruption of these employees' important official responsibilities if their non-public direct telephone numbers were to become public, and that that public policy outweighs any public interest in disclosure of their direct telephone numbers.

Similarly, the non-public direct and cell telephone numbers for a City of Madison parking garage attendant, which are listed in the printouts of police calls that occurred at around the same time as the shooting, but which are not related to this investigation, also have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. General contact information for the city's Parking Utility is publicly available, and I have determined that public policies disfavoring potential disruption to execution of the parking attendant's job responsibilities if direct telephone numbers became common knowledge outweighs any public interest in disclosure of these non-public direct and cell telephone numbers which were unrelated to this investigation.

Personal email addresses of individuals 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 contact information 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, ¶¶ 30-32. Serial numbers and pass codes for individuals' cell telephones, electronic devices and other private property have been redacted in consideration of the same privacy expectations on the part of individuals who cooperated with the investigation, and because this potentially economically valuable property identification information was not connected with the purpose of the investigation.

Bank account numbers and partial bank account numbers of individuals have been redacted from gas station receipts that were reviewed during this investigation, pursuant to Wis. Stat. § 19.36(13).

Wisconsin State Crime Laboratory records have been redacted pursuant to Wis. Stat. § 165.79(1) and (2). In accordance with that statute, details obtained from Crime Lab records documenting what analysis was conducted and the results of that analysis also have been redacted where present in DCI case reports. It should be noted that release of information pertaining to the activities of the Crime Lab's Crime Scene Response Team is not restricted by this statute, and therefore information documenting processing of the scene and collection of evidence items for analysis by the Crime Lab has not been redacted.

DCI case report *15-1188/40* references a personal patient health care record provided to DCI agents by Officer Kenny. This record has been redacted pursuant to Wis. Stat. § 146.82(5)(c). Well-established public policy also recognizes the confidentiality and privacy of personal medical information as expressed in Wis. Stat. §§ 146.82 and the federal HIPAA laws, which supports redaction of this record pursuant to the Wis. Stat. § 19.35(1)(a) balancing test.

DCI case reports *15-1188/153* and *15-1188/154* document the receipt by DCI of patient health care records for Officer Kenny provided to DCI by Officer Kenny's attorney. Along with these records, Officer Kenny's attorney also provided the Department of Justice with a waiver form pursuant to Wis. Stat. § 146.81(2), signed by Officer Kenny, which authorizes the Department to redisclose these medical records. Therefore, the patient records attached to

DCI case reports *15-1188/153* and *15-1188/154* have not been redacted from the materials produced for release. Officer Kenny's date of birth has been redacted from these patient records pursuant to Wis. Stat. § 19.36(10)(a). Officer Kenny's medical account number and medical record number have been redacted from these records pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. In applying the balancing test, I decided that the public policy of protecting the confidentiality and privacy of personal health information, which underlies Wis. Stat. §§ 146.82 and federal HIPAA laws, although not directly governing the redacted medical record account information, outweighs any public interest in disclosure of Officer Kenny's medical account number and medical record number, notwithstanding his waiver pursuant to Wis. Stat. § 146.81(2). I further concluded that public policy in favor of protecting the confidentiality of economically valuable individually identifiable information, such as account numbers, and preventing its misuse upon any redisclosure, also applies to these numbers and outweighs any public interest in disclosure of Officer Kenny's medical account and medical record numbers.

Information about medications taken by Mr. Robinson or medical conditions or medications associated with other individuals has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. None of this information was material to the subject matter of the DCI investigation. Well-established public policy recognizing the confidentiality and privacy of personal medical information is expressed in Wis. Stat. §§ 146.82 and the federal HIPAA laws. Although those privacy laws do not directly govern the redacted health information, I find that the same underlying public policy of protecting the confidentiality and privacy of personal health information outweighs any public interest in disclosure of this information. Opinions offered by witnesses regarding another's medical or mental health have not been redacted. References to various individuals taking Xanax have not been redacted because investigators were informed this was procured as a street drug and taken without prescription by the individuals referenced.

Emergency Medical Services (EMS) personnel from the Madison Fire Department responded to the shooting scene to provide medical care for Mr. Robinson. Wis. Stat. §§ 256.15(12) and 146.82(5)(c) restrict the release of treatment information from ambulance reports, except for specific information as authorized for release by Wis. Stat. § 256.15(12)(b). Although the DCI case file does not contain ambulance reports, equivalent information was obtained from the EMS personnel during interviews conducted by DCI. Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, I have determined that the sections of EMS interview reports that document EMS observations regarding the condition of Mr. Robinson and detail the emergency treatment provided for him should be redacted pursuant to Wis. Stat. §§ 256.15(12), because the information obtained during those interviews of EMS personnel is analogous to the ambulance report information restricted by that statute.

DCI report number *15-1188/151* documents DCI's receipt of the autopsy and toxicology records for Mr. Robinson, provided by the Dane County Medical Examiner's office. The DCI report has 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 Dane 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. Rediscovery 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 Dane County Medical Examiner's Office. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I have concluded that the public interest in honoring the conditions under which the medical examiner's records were provided to DCI, so as to protect 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 report *15-1188/151*, has been redacted for the same reasons. If desired, the medical examiner's records may be requested directly from the Dane County Medical Examiner's Office records custodian.

A firearms trace report provided confidentially to DCI by the federal Bureau of Alcohol, Tobacco, and Firearms ("ATF") has been redacted from case report *15-1188/141*. ATF provides firearms trace reports to DCI for its internal use only, on the condition that firearms trace reports remain the property of ATF, and may not be redistributed outside DCI without express authorization from ATF. ATF would not have provided this report to DCI without DCI's acceptance of those conditions; unauthorized rediscovery by DCI would impair DCI's future ability to obtain firearms trace information from ATF and significantly impair other cooperative law enforcement efforts between DCI and ATF. ATF does authorize DCI to release any substantive information obtained via DCI's review of the firearms trace report, and that information is included in the narrative portion of case report *15-1188/141*, except for redactions made as explained elsewhere in this letter, and redaction of the name of the ATF special agent mentioned within DCI's report, which was also done pursuant to DCI's agreement with the ATF. I have concluded, in performing the Wis. Stat. § 19.35(1)(a) balancing test, that public policies favoring effective investigation of crime and effective law enforcement, which are furthered by honoring the conditions under which the ATF firearm trace report was provided to DCI and the names of specific special agents within ATF, so as to protect the current and future joint law enforcement efforts of our agencies, outweighs any public interest in disclosure by DCI of the ATF firearms trace report itself or the name of the ATF agent involved. *Cf. Linzmeyer*, 254 Wis. 2d 306, ¶¶ 30, 32, 39.

Pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, I have redacted Facebook and other social media page printouts included in the DCI case file as referenced in DCI report number *15-1188/83*. These pages were reviewed by a DCI agent during DCI's investigation into Mr. Robinson's death, and the results of that review are documented in the related DCI report. Although social media records frequently are publicly accessible, pursuant to the balancing test I have determined that these pages should be redacted in deference to the privacy interests of the individuals referenced in these records, most of whom are wholly unconnected with DCI's investigation. Further, I have determined that the public interest in respecting the privacy of the Robinson family and of Mr. Robinson's friends and social networking contacts outweighs any public interest in disclosure of the redacted social media pages, especially because these pages were not deemed to be pertinent to DCI's investigation.

Finally, it should be noted that DCI report number *15-1188/134* explains that files generated by an analyst assigned to assist in this investigation were stored on LTO Tape Media. The content of the LTO Tape Media records duplicates the records already documented earlier in the case file under DCI reports numbered *15-1188/18* and *15/1188/125*, and we are declining to provide copies of the referenced LTO Tape Media archive copies of these same records for the reasons set forth above.

The Department of Justice normally charges \$.15 per page for duplication of records provided 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. 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,

A handwritten signature in black ink, appearing to read "Kevin C. Potter". The signature is fluid and cursive, with the first name "Kevin" and last name "Potter" clearly legible.

Kevin C. Potter  
Assistant Attorney General  
Deputy Administrator, Legal Services Division  
Public Records Custodian

KCP:kas

Enclosures