



WEST ALLIS POLICE DEPARTMENT

Patrick S. Mitchell
Chief of Police

Robert Fletcher
Deputy Chief of Police

Christopher Marks
Deputy Chief of Police

September 29, 2020

To Whom It May Concern:

Pursuant to Wis. Stat. § 175.47(5)(b), a copy of investigative reports completed by the Milwaukee Area Investigative Team (MAIT), regarding the investigation into the May 14, 2020 injury to Ravid Smith, has been prepared for release.

The West Allis Police Department was the lead investigating agency for this critical incident, overseeing the MAIT's investigation. The assigned West Allis Police Department case number is 20-16449. The case file has been reviewed in preparation for public release and a copy of the case file's reports and records have been made available online on the City of West Allis' website at: www.westalliswi.gov/mait.

Certain information has been redacted from the records or not provided at all, either because specifically required by law or pursuant to Wis. Stat. § 19.35(1)(a) balancing test. When performing the balancing test, I had to decide whether the strong presumption favoring disclosure was overcome by some even stronger presumption favoring limited access or non-disclosure. 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. See *Building and Constr. Trades Council v. Waukegan Comm. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998). As such, the following has been redacted or not provided:

Names, addresses, phone numbers, and other personal identifying information of citizens and private businesses have been redacted from records.

- ❖ In performing the balancing test, I 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 and businesses involved in these investigations outweighs any legitimate public interest in disclosure of identifying information that could identify witnesses and other individuals or businesses referenced by witnesses. Wis. Stat. § 19.31; *Linzmeier*, 254 Wis. 2d 306, ¶¶ 30, 32, 39, 41. Due to the sensitive and sometimes controversial nature of these types of incidents, public disclosure of the names and other identifying information for individuals interviewed or identified during the investigation 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. In addition, this information has also been redacted to protect against identity theft or other unauthorized use.



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Birth dates/ages of specific law enforcement officers, information identifying routine shifts worked by law enforcement officers, and names of higher learning institutes attended by law enforcement officers have been redacted from records.

- ❖ In performing the balancing test, I determined that the public interest in avoiding unnecessary intrusion into the personal lives of law enforcement officers mentioned in a law enforcement report outweighs any legitimate public interest in information about the conduct of governmental affairs. See *Hempel*, 284 Wis. 2d 162, ¶28, *Linzmeyer*, 254 Wis. 2d 306, ¶38. In addition, this information has also been redacted to protect against identity theft or other unauthorized use.

Contact phone number(s)/email(s) for specific law enforcement officers and other first responder(s) have been redacted from records.

- ❖ In performing the balancing test, I determined that the strong public interest in effective investigation and prosecution of criminal activity outweighs any public interest in disclosure of contact phone numbers of law enforcement officers. Allowing the telephone numbers of law enforcement officers to become publically 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. See *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. In addition, this information has also been redacted to protect against identity theft or other unauthorized use.

Information related to law enforcement tactics/techniques have been redacted from records. Such information includes logistics of using air space by drones for conducting law enforcement investigations.

- ❖ Public policies favor public safety and effective law enforcement. Public policies are against disclosure of law enforcement techniques and information that, if made public, could cause interference with law enforcement business and/or compromise the security of law enforcement equipment. See *Portage Daily Register*, 2008 WI App 30, ¶¶ 23-26.

Social security numbers have been redacted from records.

- ❖ Social security numbers obtained or maintained by an authority pursuant to a provision of 42 U.S.C. § 405(c)(2)(C)(viii)(I) are exempt from disclosure.



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- ❖ This information has also been redacted to protect against identity theft or other unauthorized use.

Driver's license numbers have been redacted from records.

- ❖ The Federal Driver's Privacy Protection Act (DPPA) (18 USC Wis. State Statute 2721) prohibits the disclosure of certain "personal information" or "highly restricted personal information" which originates from a State motor vehicle record. Under current controlling law, disclosure of each item "personal information" or "highly restricted personal information" must be justified by the specific permissible use identified below. Failure to provide such justification may result in redaction of the record requested. Such information shall not knowingly be disclosed or otherwise made available without the express consent of the person to whom the information pertains or unless specifically permitted by the DPPA.
- ❖ This information has also been redacted to protect against identity theft or other unauthorized use.

Unique identifying numbers have been redacted from records. Such numbers include serial numbers, payroll/employee numbers of law enforcement personnel, license plates, vehicle identification numbers, Wisconsin State Identification Numbers, FBI Identification Numbers, and account numbers.

- ❖ In performing the balancing test, I determined that the public policy in favor of protecting 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, outweighs any public interest in disclosure of the unique information of individual persons.
- ❖ This information has also been redacted to protect against identity theft or other unauthorized use.

Serial numbers of firearms have been redacted from records.

- ❖ In performing the balancing test, I concluded that public policy in favor of protecting confidentiality of this individually identifiable information outweighs any public interest in the disclosure of a firearms serial number. Furthermore, the nature of the Firearm Owner's Protection Act (FOPA), which amended 18 U.S. Code §§ 921 – 931, outlines protections of the owners of firearms.



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Medical information and medical treatment information contained within the records, including medications prescribed to individual(s) by a doctor, have been redacted from records.

- ❖ In performing the balancing test, I determined that the public interest in disclosure of personal medical information and treatment is outweighed by the public interest in the privacy on the part of individuals as it pertains to their personal medical history, as well as the privacy afforded to individuals by the Health Insurance Portability and Accountability Act (HIPAA).
- ❖ See Wis. Stat. § 146.82 Confidentiality of Patient Health Care Records.

Wis. Stat. § 19.35 (4)(b) requires that you be informed this determination is subject to review under Wis. Stat. § section 19.37 (1). You may bring an action for mandamus asking for a court to order release of the records or request the District Attorney or Attorney General to bring an action for mandamus asking a court to order a release of the records. The Milwaukee County District Attorney's office is located at 949 N. 9th St., Milwaukee, WI, 53233. The Milwaukee County Children's Court Center is located at 10201 W. Watertown Plank Rd., Wauwatosa, WI, 53226. The State Attorney General's office is located at Wisconsin Department of Justice, 114 E. State Capitol, P.O. Box 7857, Madison, WI 53707-7857.

Sincerely,

A handwritten signature in cursive script that reads "Steven Beyer".

Steven Beyer
Captain of Police
Administrative Services Bureau