



Gerald Staniszewski, Chief of Police
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November 1, 2017

**All Requesters of Records Related to the Administrative Review and
In-Car Video of Officer Konkel's Officer Involved Shooting**

To Whom It May Concern:

Pursuant to Wisconsin Public Records Laws the Administrative Review of Officer Involved Shooting, Eau Claire Police Department Incident 2017-06866, involving Officer James Konkel is being released with the following exceptions:

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 involved in those investigations outweighs any legitimate 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 shooting 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 negative effect on future witnesses' willingness to come forward and cooperate with law enforcement in investigations of similar incidents. Accordingly, names of witnesses, family members, and others mentioned by individuals interviewed have been redacted. Initials for the names of these individuals, if in the report, were not redacted.

Pursuant to Wisconsin Public Records Laws the in-car video recording from Officer Kevin Putzy's and Officer James Konkel's squad cars related to Eau Claire Police Department Incident 2017-06866 are also being released with the following exceptions:

- The full length of Officer Kevin Putzy's squad video is 39 minutes 13 seconds. The last 36 minutes 53 seconds of the video have been excised, as at that point the incident itself had ended medical care has begun on Mr. Kever. This portion of the video has been excluded due to the privacy interest of the deceased's family. Release of the video to the public could re-traumatize the family. The decision for denial is pursuant to 5 U.S.C. § 552 and National Archives Records Admin. V. Favish, 541 U.S. 157 (2004) which restricts disclosure of death scene images.

- The full length of Officer James Konkel's squad video is 48 minutes 53 seconds. The last 42 minutes 28 seconds of the video have been excised, as at that point the incident itself had ended medical care has begun on Mr. Kever. This portion of the video has been excluded due to the privacy interest of the deceased's family. Release of the video to the public could re-traumatize the family. The decision for denial is pursuant to 5 U.S.C. § 552 and National Archives Records Admin. V. Favish, 541 U.S. 157 (2004) which restricts disclosure of death scene images.

In arriving at the above determinations, I have reviewed the requested information and have carefully balanced the public interests in non-disclosure of these records against the strong presumption that public records should be open to inspection. Access to these records has been denied only because it is clear that statutes mandate redaction or withholding of such records and/or public policies promoted by non-disclosure strongly outweigh the public's interests in full disclosure.

The denial of the aforementioned information is subject to review by mandamus under sec. 19.35(4)(b) of the Wisconsin State Statutes or upon application to the Attorney General or a District Attorney.

FOR THE CHIEF OF POLICE

A handwritten signature in black ink that reads "Kelly Thompson". The signature is written in a cursive, flowing style.

KELLY THOMPSON

Administrative Division Manager