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PARALEGAL

Derek B. Schuld

To: Alder Sabrina Madison, Madison Common Council President

From: Michael Haas, City Attorney

Date: October 19, 2026

Re: Release of Confidential Information

Last week our office was advised by MPD about the public disclosure of a confidential email exchange between Deputy City Attorney Patricia Lauten and MPD Records Custodians, Simone Munson and Jamie Doyle. *See attached Memo and exhibits.* The confidential document was given to Interim Independent Police Monitor Glass under the "Confidential Records Released Only to the OIM (Red Flag)" record designation pursuant to the agreement between the IM and MPD to facilitate the release of MPD Records so the IM can perform their duties under the ordinance. Red Flag designations are documents that contain information not subject to public release. The MOU can be found on the IM's Website at this link and as an exhibit to the Memo:

<https://www.cityofmadison.com/independent-police-monitor/documents/MPD%20and%20OIM%20MOU.pdf>

The MPD Records Custodians released the confidential document only to Monitor Glass. Alder Glenn did not obtain the document from DCA Lauten nor MPD but was able to put a copy on Facebook. As DCA Lauten's email indicates, the City anticipates it will be sued by the family of the deceased individual. There are two serious problems with the public disclosure of this record. The first is a violation of attorney-client privilege. The second is disclosure of attorney work product.

Attorney-client privilege is a universally recognized privilege under the common law and is codified at the State (*Wis. Stats. 905.03*) and federal (*Federal Rules of Evidence 501 and 502*) level. It is further enforced through Wisconsin's rules of professional conduct for attorneys (*Supreme Court Rules (SCR) Chapter 20*). The privilege protects a lawyer's communication providing legal advice and the client's communication seeking legal advice. For attorneys who represent municipalities, the municipality is the client

not an individual mayor, council member or department head. Only the client (the City) can give permission to waive the privilege. Neither Monitor Glass nor Alder Glenn possess the ability to waive the privilege and disclose confidential documents. Nor did Monitor Glass or Alder Glenn obtain permission to disclose the document on Facebook.

Surrendering attorney-client privilege can have damaging consequences to the City in litigation regardless of whether the disclosure was intentional or unintended. The damage occurs when a lawyer's legal analyses or litigation strategies are disclosed allowing opposing parties to reap an unfair advantage in learning the City's thought processes and legal positioning which may increase the City's liability exposure, weaken the City's defense of a case and undermine possible settlement – all of which can result in a damage/settlement award against the City, or an increased award, which the taxpayers have to fund. This is a serious matter since it is vital for the City's lawyers – and the City - to have full, candid, communication when providing legal advice without the fear that communications will be publicly disclosed.

Second, DCA Lauten's email was clearly authored with the expectation that the City would be sued by the deceased's estate, and it explicitly states as much in the email. Documents created in anticipation of litigation are protected from disclosure under *Wis. Stat. § 804.01(2)(c)*, which mirrors federal protections for trial preparation materials. The protection attaches even if a lawsuit hasn't been filed yet as long as litigation is reasonably anticipated.

What is protected is the attorney's mental impressions, conclusions, opinions and legal theories about the case. This type of information universally receives legal protection from being discovered in litigation. The very purpose of protecting this information is to allow the client's (here the City's) attorneys to develop strategy and legal theories to defend the City without the fear a plaintiff/defendant opposite the City in litigation can discover them. The public records law recognizes attorney work product as an "except as otherwise provided by law" exception to disclosure. See *Wis. Stats. 19.35(1)(a)*.

Our office would like to bring this matter to your attention as it relates to actions of the OIM as well as a member of the Common Council. If you think it would be helpful, we can send a reminder to alders regarding the confidentiality of attorney-client communications.



INTER-DEPARTMENTAL CORRESPONDENCE

Date: October 16, 2026

To: City Attorney Mike Haas and Deputy City Attorney Patti Lauten

From: Assistant Chief Angie Kamoske

Subject: Potential Violation of Records Sharing MOU by OIPM

Purpose and Background

The purpose of this memorandum is to document concerns regarding the public disclosure of a confidential Madison Police Department (MPD) record that was provided to the Office of the Independent Police Monitor (OIPM) under the Records Sharing Memorandum of Understanding (MOU), which outlines the process of records sharing between the OIPM and MPD.

Section B of the MOU provides the OIPM with unfettered access to MPD records as permitted by law, in furtherance of its oversight responsibilities. This access is accompanied by specific confidentiality requirements under Section D, which establishes a category of records designated **"Confidential Records Released Only to the OIM (Red Flag)."**

Section D expressly states:

"Confidential records will not, under any circumstance, be distributed, published or presented to the PCOB, other government agencies, and/or the public through open records requests."

The MOU further specifies that confidential records are for OIPM use only. If the OIPM determines that portions of a confidential record should be made public, the MOU requires that the record first be provided to MPD for review and redaction.

Disclosure of Confidential Records

MPD previously provided Monitor Glass with records related to the Richard Johnson investigation (MPD Case #24-570306) on a USB flash drive on March 9, 2026. The envelope containing the drive expressly identified the entire record contained on the flash drive as a Red Flag release. I also reiterated this information to Monitor Glass when I turned the drive over to her.

Among the records provided on the drive was an email exchange, dated May 16, 2025, involving the City Attorney's Office and MPD personnel concerning the investigation, potential civil litigation and related investigative materials.

On October 14, 2026, I became aware that this email exchange was posted publicly on an alder's Facebook page. I subsequently confirmed with MPD records personnel that **the referenced email was released by MPD exclusively to the OIPM and was not released to the alder who had posted it publicly or to any other individual or entity.**

Based on verifying this release history, I have reason to believe that the record was subsequently shared outside of the OIPM, ultimately resulting in its public disclosure.

The OIPM did not request that MPD review the record for potential redaction and public release, as required by the process established in Section D of the MOU.

Previously Documented Concerns

This incident follows concerns previously communicated to the City Attorney's Office regarding the potential disclosure of confidential records by the OIPM.

On June 16, 2026, I submitted a memorandum to the City Attorney's Office titled "Potential Violation of Records Sharing MOU by OIPM," documenting public statements by a reporter indicating that Monitor Glass had shared departmental emails related to the same investigation. These records had been designated as Red Flag, and the reported disclosure occurred without prior MPD review or an opportunity to make necessary redactions, as required under the MOU.

Although the precise circumstances of the potential disclosure were not established, the statements raised concerns regarding compliance with the MOU's confidentiality requirements. A copy of that memorandum is attached for reference.

Departmental Concerns

This disclosure raises concerns regarding compliance with the confidentiality provisions of the MOU, particularly that the email was provided under an expressly communicated Red Flag designation and subsequently became publicly available without MPD review or authorization.

The nature of the email correspondence also raises potential concerns regarding the disclosure of privileged legal communications involving an investigation related to anticipated civil litigation.

The MOU's confidentiality provisions are an essential safeguard accompanying the OIPM's unfettered access to departmental records. The authority to access confidential information for oversight purposes does not confer authority to distribute that information outside the restrictions established by the MOU.

Conclusion

MPD has remained committed throughout this process to providing the OIPM with access to records necessary to fulfill its oversight responsibilities. However, that access must be accompanied by compliance with the confidentiality requirements established in the records sharing MOU.

The public disclosure of the email correspondence provided exclusively to the OIPM under a Red Flag designation, particularly in light of previously documented concerns regarding the sharing of confidential records, raises serious questions about compliance with the MOU and the safeguards intended to protect sensitive departmental records and attorney client privileged communications.

This memorandum is provided to document the incident and ensure that the City Attorney's Office is aware of these concerns. MPD requests guidance from the City Attorney's Office regarding the disclosure of records and appropriate measures to ensure compliance with the MOU moving forward.

Attachments

- Attachment 1: June 16, 2026 memorandum regarding potential MOU violation
- Attachment 2: Records Sharing MOU between OIPM and MPD
- Attachment 3: Documentation of the public posting of the record referenced in this memo



CITY OF MADISON POLICE DEPARTMENT



INTER-DEPARTMENTAL CORRESPONDENCE

DATE: June 16, 2026

TO: City Attorney Mike Haas and Deputy City Attorney Patti Lauten

FROM: Assistant Chief Angela Kamoske

SUBJECT: **Potential Violation of Records Sharing MOU by OIPM**

It was brought to my attention that the Office of the Independent Police Monitor (OIPM) may have shared records in a manner that is contrary to our Records Sharing Memorandum of Understanding (MOU) that is in place between the Madison Police Department (MPD) and the OIPM.

On March 4, 2026, Independent Police Monitor Glass sent me an email requesting several additional items related to the Richard Johnson case, including:

- All dashcam recordings for all squads involved
- Recordings, or at least transcripts, of the PSIA officer interviews (including Officer Lewis)
- All bench notes (notes used to prepare police reports)
- All MPD correspondence regarding the case

I forwarded this request to Records Custodian Jamie Doyle with instructions that these records be provided to the OIPM in "red" status, consistent with previously released materials associated with this case. These records were subsequently provided to IPM Glass via a USB drive in red status.

Under the current Records Sharing MOU, records released in red status are not to be shared outside the OIPM because they may contain information that is not releasable under state and federal public records laws. The MOU further states that if OIPM wishes to make information publicly available, OIPM will first provide the records to MPD for any necessary redactions prior to release.

On June 15, 2026, several concerning comments were posted in a Reddit thread by a user identified as "robchappell", which appears to be Madison 365 reporter Rob Chappell. In one of those comments, Chappell indicated that IPM Glass had shared several departmental emails with him, stating that she did so "without making me jump through the open records requests hoops [sic]." In the same post, Chappell wrote "I haven't reviewed the video they relied on yet, but I'm going to tomorrow; I don't think she'd invite me to come in to do that if it would contradict the report".

Screenshots of the referenced Reddit posts are attached as Appendix A.

If Independent Monitor Glass shared records that had been provided to OIPM in red status without first submitting them to MPD for review and redaction, such actions would appear to be a violation of the terms of the existing Records Sharing MOU. This raises serious concerns regarding compliance with established records-sharing agreements, the protection of potentially non-public information, and the integrity of the existing relationship and records sharing agreement between MPD and OIPM.

Appendix A – Reddit Posts Referenced in Memorandum

The following screenshots are included to document the public statements referenced in this memorandum.

https://www.reddit.com/r/madisonwi/comments/1u6j0uq/independent_monitor_report_madison_police_caused/?utm_source=share&utm_medium=web3x&utm_name=web3xcss&utm_term=1&utm_content=share_button

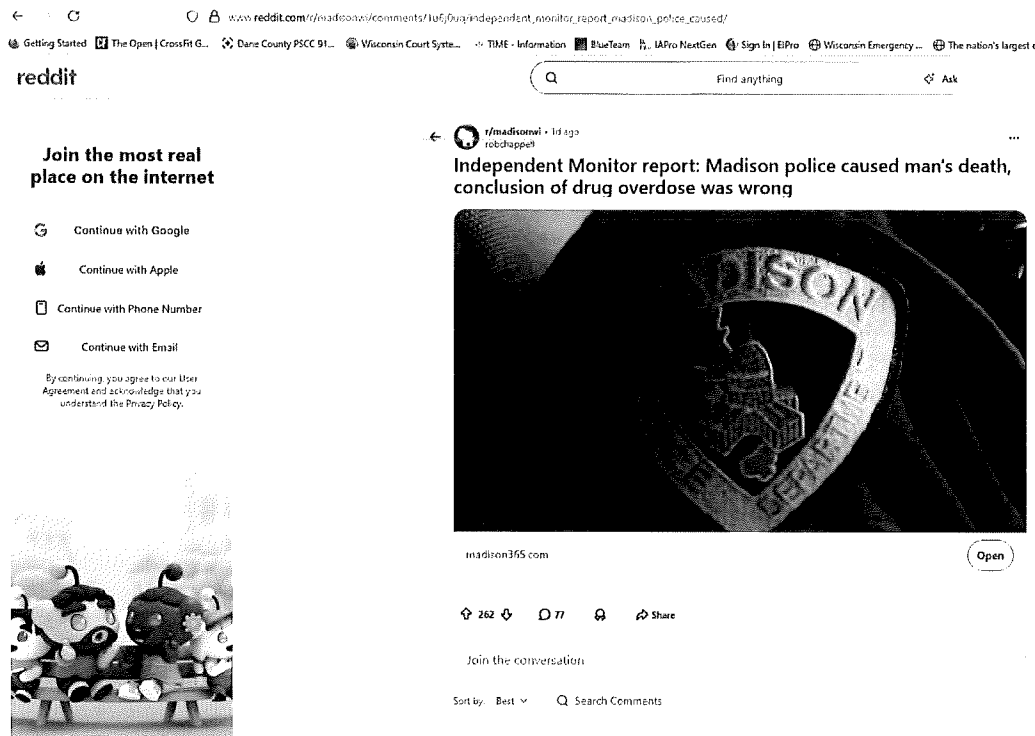


Figure 1 Screenshot of original Reddit posting with web address included

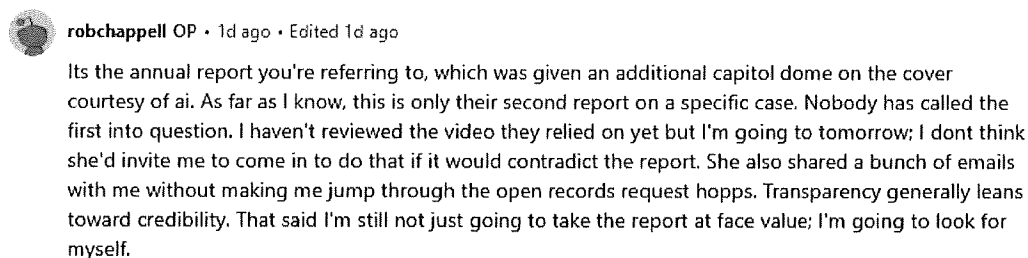


Figure 2 Screenshot of Reddit comment regarding email and video

Memorandum of Understanding between the Madison Police Department and the Office of the Independent Police Monitor regarding access to MPD Records and Information

A. THE OFFICE OF THE INDEPENDENT MONITOR

The Office of the Independent Police Monitor ("OIM") was created for the purpose of providing civilian oversight of the Madison Police Department ("MPD") and ensuring that the MPD is accountable and responsive to the needs and concerns of all segments of the community, thereby building and strengthening trust in the MPD throughout the community. The OIM is managed and directed by the Independent Monitor ("the Monitor"), a full-time employee of the City of Madison, recruited and appointed by the Police Civilian Oversight Board ("PCOB") through a broad community-based outreach, and finally confirmed by the Common Council. The Monitor is responsible for ensuring that the duties of the OIM are fulfilled in consultation and collaboration with the Board, per MGO 5.19(2).

B. OIM AUTHORITY TO ACCESS TO MPD RECORDS

The OIM's authority to access MPD records derives from Section 5.19(7)(i) of the Madison General Ordinances which states that "[t]he OIM shall, to the extent permitted by law, have unfettered access to all MPD records, policies, Standard Operating Procedures, data, computer databases, and other information necessary to fulfill the duties of the OIM." Additional authority comes from Wisconsin's Public Records Law. MPD agrees to provide a timely reply to the Office of the Independent Monitor (OIM) to requests for records held and created as public records by the MPD to advance the purpose of the OIM as enacted by Common Council. This timely reply may require the viewing of records in an office at an MPD designated area.

C. TYPES OF RECORDS HELD BY MPD

Attached to this MOU is a list of records held by MPD so the OIM will know what records are available. This list may be updated and modified without having to amend the MOU.

D. RELEASE OF RECORDS BY CATEGORY

Release For Public Disclosure with Or Without Redaction (Green Flag)

Records permissible for immediate disclosure to the public, by the OIM, without further review or consultation with MPD. Records for immediate release may have redactions to the record and contain only such information that would, subject to MPD's custodial authority, be released to the public under the balancing test as set forth in Wisconsin law and/or in accordance with the Wisconsin Public Records laws, Wis. Stat. secs. 19.31-39 or any other applicable State or Federal law. These records may be shared freely amongst OIM staff, the PCOB, other government agencies, and the public through open records requests. The OIM agrees to accept the redactions to these records in order to expedite the duties and obligations of both city agencies. No "reply letter" will be provided to the OIM for these requests unless the OIM requests a letter.

EXAMPLES: arrest information (Newspapers v. Breier, 89 Wis. 2d 417), anonymous crime data, and MPD policies and agreements.

Confidential Records Released Only to The OIM (Red Flag)

Confidential records are records where the information has not been publicly shared or records, in their entirety, that cannot be redacted to make them releasable to the public. This category includes cases that are open and active and under investigation by Madison Police Department. These records contain information that is explicitly barred from public disclosure by law under the balancing test as set forth in Wisconsin law and/or in accordance with the Wisconsin Public Records laws, Wis. Stat. secs. 19.31-39 or any other applicable State or Federal law. Confidential records will not, under any circumstance, be distributed, published, or presented to the PCOB, other government agencies, and/or the public through open records requests. Confidential records are for OIM use only and will be designated as such with a stamp prior to being released to OIM. If OIM finds it necessary to make portions of a confidential document public to fulfill its statutory duties, OIM agrees to provide the document to MPD for redactions such that it would become information the OIM could publicly share. The OIM understands that at the time of the request, some open and active cases may not be able to be redacted to allow public release by the OIM.

EXAMPLES: juvenile information, employee information identified in Wis. Stat. 19.36(10)(a), and records under the protection of a court order of confidentiality.

Personnel Records and Internal Investigations (PSIA)

Release of Personnel Records and Internal Investigation (PSIA) records may be governed by other state and federal laws outside the public records law (including labor law) which may impact either the timing of the record release or the redactions made to the records. For example, in some cases, employee notice must be given before records may be legally released by MPD. In other cases, the discipline process may not be concluded which could impact the employee's rights under State labor law. When

OIM requests a personnel record, MPD agrees to inform OIM of the status of the investigation including any discipline or PFC process. MPD and OIM will work together in good faith to determine when the records can be released and whether they will be processed as confidential or released with or without redactions. In some cases, if other legal proceedings are pending that could be impacted by a public record release, MPD and the OIM agree to consult with the City Attorney's office to prevent any adverse legal consequences for the City. OIM agrees to contact MPD prior to any public (outside OIM) release of any part of an employee's personnel record to allow for discussion, review, appropriate statutory and common law redactions in protection of complainants or witnesses, and to provide the required statutory notice under Wis. Stat. §19.356 before public release. When the OIM requests a personnel record for internal use only with no public release, MPD will provide a courtesy notice to the subject of the personnel record request.

E. ACCESS TO DATA

MPD creates and keeps case and incident information in a records management system. This records management system contains confidential information regarding cases for MPD as well as all consortium members and information from the FBI and other federal law enforcement agencies. MPD cannot release other consortium members' data. To the extent the OIM is asking for MPD data, the release of this data will be governed by the agreement listed above. Confidential data will be released as confidential data and marked in some way in the database itself; this data may not be released by the OIM to anyone. If the OIM requests data that could be released as a public record, the MPD will release the data as a public records request.

F. PROCEDURE OF RELEASE OF RECORDS TO THE OIM

- Request from OIM to Executive Office or Records Custodian.
- MPD response acknowledging OIM request.
- MPD review and determination if the records can be a public release (with or without redaction) or whether they are released as confidential OIM use only in accordance with the public records laws and other laws that govern law enforcement records.
- Confidential records will be stamped stating CONFIDENTIAL RELEASE TO OIM ONLY
- In the interest of faster record processing, OIM and MPD agree to waive the standard reply letter unless either OIM or MPD determine one is necessary for a particular request.
- At any time, an individual may sign an informed consent form for release of records related to themselves that would not otherwise be released to the public. This includes parents or legal guardians for some records related to their children/ward. Wis. Stat. 48.396, 938.396(1)(c)2. To facilitate the release of these records, the OIM can provide MPD with a release from the individual.

- If there is a request made from the OIM that is extremely time sensitive as determined by the OIM, the MPD agrees to make all reasonable efforts to comply with the timeliness of the OIM request. MPD agrees to prioritize all records requested by the OIM.

G. PRIOR NOTIFICATION OF PUBLIC RELEASE OF ACTIVE INVESTIGATIONS AND PERSONNEL RECORDS

Active Investigations.

It is anticipated that some information regarding open and active investigations may be of critical interest to the public, particularly critical incidents, investigations with a high level of public interest, or investigations directly related to an independent investigation conducted by the OIM in accordance with MGO 5.19 (7)(b).1. In an effort to balance the public's need to know with MPD's duty to investigate crimes, to the extent MPD is the investigating agency, the release of information from the OIM may be handled jointly between the Monitor and MPD's Public Information Officer or Assistant Chief of Support & Community Outreach (or designee). Working together, the Independent Monitor and MPD will review the information released to the OIM and the OIM planned public release to determine what information may be publicly released in keeping with state or federal law governing law enforcement records release including release of active investigation information. A representative of the City Attorney's Office may be present at such meetings to provide insight and guidance.

Personnel Records.

The OIM agrees to consult MPD prior to any release if the Independent Monitor decides to include an MPD personnel record as an attachment or exhibit in any investigation, report, or any other document the OIM is creating with the intent to publish, present, or distribute outside the OIM. Once contacted, OIM and MPD will discuss and review the records to determine if any statutory redactions should be made or if redactions should be made to protect those that provide information such as complainants, victims or witnesses.

H. DISPUTE RESOLUTION

Recognizing that communication and understanding is the best way to resolve any disagreements, OIM and MPD agree to engage in regular discussions with the Assistant Chiefs of Investigative & Specialized Services and Field Operations, or their appointees, MPD Director of Data, Reform and Innovation, and the MPD Records Custodian on the matter of Law Enforcement Sensitive Information (LESI) and other information the Monitor may be exposed to which, if known to the public, could endanger officer and individuals' safety or jeopardize MPD's effectiveness in the detection and investigation of crimes. MPD and OIM agree to work cooperatively together, in good faith, to resolve

any disagreements regarding this MOU and/or the availability of MPD records to the OIM.

I. AMENDMENTS AND ADDENDUMS

This MOU may be modified or amended, or the provisions waived with the written consent of both the Chief and the Independent Monitor, witnessed by the City Attorney.

This MOU and any of its addendums, appendices, or indexes is a "record" under the Wisconsin Public Records Law and is subject to public disclosure. Wis. Stat. sec 19.32(2).

Shon F. Barnes

Shon F. Barnes, Chief of Police

01/04/2024

Date

Michael Haas

Michael Haas, City of Madison Attorney

1/2/2024

Date

Robert Copley

Robert Copley, Independent Police Monitor

1/4/2024

Date

Addendum

Records Released Confidentially Include (Will be Stamped Released to OIM Confidentially):

Case files that are open and active (video may be view only)

Juvenile records

Records that contain medical information

Records with victim and witness information not otherwise releasable

Records that contain unsubstantiated allegations of a crime

Records that would require employee notice, post notice to employees

Data that contains items prohibited from release by state law like PII, juvenile, victim, etc

Calls for Service

OIC notes

Records that are Released as Public Records:

Closed case files that have been redacted

Records that are redacted

Data that is de-identified

Redacted Calls for Service

Posting on Alder Carmella Glenn's Facebook Page on 10/14/26

From Lauren, Patricia <Plauten@cityofmadison.com>
Sent: Friday, May 16, 2025 10:56 AM
To: Munson, Simone O <Smunson@cityofmadison.com>; Doyle, Jamie <JDoyle@cityofmadison.com>
Subject: Richard Johnson, Jr. / MPD Case Number 24-570306

Mr. Johnson's estate hired a lawyer so we are expecting a lawsuit arising out of this contact with MPD. I understand that DCI finished its investigation and has now sent the case to the DA to determine whether charges will be filed.

Records has been great in producing documents. I did have a couple of questions, and these may be documents in the DCI report that you don't have or can't release right now.

1. Was there any audio or video turned over to DCI? We know Johnson was in the back of a squad car and sometimes there is video recording of the person in the back of the squad – was that the case here? We also know that at least one officer had their mic synched. We will need you to preserve any audio/video from this case including any Dane County 911 calls. What do you have and can you turn anything over now?
2. Do you have the DCI report? If you don't have it, do you expect to receive it after Ish decides whether charges will be filed. In particular, we need the autopsy report and toxicology report. While DCI makes their reports public on their website, it is doubtful these two reports will be part of the public report release yet it will be important for us to have them to assess liability. In lieu of giving us a copy of these reports, I am happy to come down and just read them.

10/14/26

No comments yet
Be the first to comment

reports, I am happy to come down and just read them.

As I noted, no, we don't have the DCI report yet. Often Ish asks DCI to go back and do more work, so they don't give us their report until he has made his decision. The initial autopsy report is available but I can tell you the toxicology report is not in yet. I spoke with one of the medical officers who told me he was told to expect another 3-4 months wait for the results. Ish will not make a decision without that report. When we do get the final DCI report, it will be part of the total package.

3. Are there any other documents that you can turn over at this time that haven't been given to us previously. I think there were some police reports – maybe Weaver's? that we didn't have. As long as you don't share any information outside our organization, I do not have any issue with you having access to the reports that are in our system (LERMS) and the audio/video that exists on our servers. Our OICI team members often access those things as they are assisting DCI with various aspects of the investigation. They were generated by our department (or other City agencies) so they are not secret and they are accessible to us. There's no reason you can't be looking at this from a civil liability standpoint at the same time Ish is examining it from a criminal liability standpoint. To be honest, we ask the team to do the same, since we know DCI does not examine or document some of these types of concerns. What you won't have any access to are the things DCI has generated or gathered, such as the interviews with the involved officers, the public video they collected, interviews with medical staff, etc. That won't be accessible until after Ish release the DCI report to us.

Hope that helps. Feel free to ask anything else or set up a meeting if you want to chat about it in more depth.

Have a good weekend,

Justine

J.L. Justine Harris
South District
Madison Police Department
(608) 266-5934 desk
(608) 640-9627 cell

10/14/26

No comments yet
Be the first to comment