Office of the Sheriff - Jefferson County

411 S. Center Avenue
Jefferson, Wisconsin 53549-1703

Paul S. Milbrath, Sheriff

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Administrative Captain Patrol Captain Jail Captain

TO: Requestors of Police Records

FROM: Sheriff

RE: **Federal Driver Privacy Protection Act and Wisconsin's Public Records Law**

DATE EFFECTIVE: July 2, 2013

As a result of a 7th Federal Circuit Court of Appeals decision, *Senne v. Village of Palatine, Il.*, 695 F.3d 597, (2012) and a 4th Federal Circuit Court of Appeals decision, *Maracich v. Spears*, 675 F.3d 281 (2012), many law enforcement agencies have had to significantly alter their procedures for complying with the Wisconsin Public Records Law. Both of these cases interpreting the Federal Driver Privacy Protection Act (DPPA) are currently awaiting action before the U.S. Supreme Court. Article VI, Section 2 of the U.S. Constitution, Wis. Stats. 19.36 (1) and 19.35 (1)(a) recognize that the Federal DPPA supersedes State law in determining what records or parts of records can be released to the public.

In order to comply with these decisions interpreting the Federal Driver Privacy Protection Act, we must remove from our reports "personal information that identifies an individual" including the following data elements before copies of such reports may be provided to the public without the written consent of the persons named therein:

1. Full Names
2. Dates of Birth
3. Addresses (except 5-digit zip codes)
4. Phone numbers (cell and land line)
5. Photographs
6. Social Security Numbers
7. Medical or disability information
8. Driver's license and DOT ID card numbers and physical descriptors
9. Vehicle registration plate numbers and related information
10. Vehicle Identification Numbers (VIN)
11. Biometrics, such as fingerprints

We wish you to be aware that your copy of a requested police report may contain significant redactions in order to comply with the Federal law and avoid both civil and criminal penalties. Such penalties also apply to any person who disseminates legally protected personal data items without a permissible use as stated in the Federal law. For a list of permissible uses, see the **Limited Record Information Request Form** which can be located at www.jeffersoncountywi.gov under Departments; Sheriff; General Information; Open Records. If you believe you qualify for one of these Federal permissible uses, you may complete the previously mentioned form to request an unredacted copy of the report. Falsifying this

form may result in Federal and/or State civil and/or criminal penalties. We will review and respond to your request accordingly.

If you are requesting a police report that pertains to you personally, you will receive a copy of the report with all your "personal information" contained therein but all other personal information pertaining to other individuals/drivers will be redacted. This means that you must properly identify yourself when requesting a police record so that we can locate the record pertaining solely to you. You may be able to receive an entire, unredacted copy, but only if you properly execute the DPPA form attesting to your eligibility for one or more of the permissible uses listed thereon, or if you provide a completed release form from each person mentioned in the police report (see the **DPPA Release of Personal Information Form** at www.jeffersoncountywi.gov under Departments; Sheriff; General Information; Open Records).

Traffic Crash/Accident Reports:

Insurance companies and licensed attorneys may hold a permissible use under the Federal law and can obtain complete traffic crash reports. Motorists may wish to contact their insurance agency or lawyer and have them obtain the report on their behalf.

Unredacted traffic accident/crash reports may also be obtained from the Wisconsin Department of Transportation by calling (608) 266-8753 for a fee.

We seek your patience in responding to your request(s). Given the nature of the Federal law, we must examine each page and redact them accordingly. This is a laborious and time-consuming process to handle along with our other public service/public safety duties.

This memo is for information purposes only and should not be construed as a denial of any particular record request or as providing legal advice.