To Whom It May Concern:

Our office has received your request dated 8/5/2011. A request of this nature is not governed by Federal disclosure, but rather Wisconsin Chapter 335, Laws of 1981.

Upon receipt of the cost $4.85, payable to "Milwaukee County Sheriff", 949 North 9th Street, Milwaukee, WI 53233, Attention: Records and Identification Unit. The information will be released to your company. Below is an itemization of the charges.

<table>
<thead>
<tr>
<th>Subject of Request</th>
<th>ReqID</th>
<th>SubjectLastName</th>
<th>SubjectFirstName</th>
<th>Type of Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>MCSO general use of Cellu</td>
<td>67755</td>
<td>67755</td>
<td>67755</td>
<td></td>
</tr>
</tbody>
</table>

Further be advised that in the event all or part of your request is denied, this determination is subject to review by Mandamus Wisconsin Statute 19.37 (1) or upon application to the District Attorney or the Attorney General.

Very Truly Yours,

David A. Clarke Jr.  SHERIFF
Milwaukee County, Wisconsin

NOTE: Nonpayment of fees will restrict future assistance by this office. Please refer to our R and I number when making payment.
August 17, 2011

Laurence J. DuPuis, Legal Director  
ACLU of Wisconsin  
207 E. Buffalo Street, Suite 325  
Milwaukee, WI 53202

Re: Open Records Request

Dear Mr. DuPuis:

I am in receipt of your 10-point open records request for information relative to the MCSO's general use of Cellular Telephone records.

The Open Records section of the Sheriff's Office has processed this request.

A request of this nature is not governed by Federal disclosure, but rather Wisconsin Chapter 335, Laws of 1981. In furtherance of your request please note:

As custodian, I must decide whether the strong public policy favoring disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure. This "balancing test," is used by me to determine whether the presumption of openness is overcome by another public policy concern. The 10 items listed on the initial request are of such a breadth that I am referring to them in the listed format:

<table>
<thead>
<tr>
<th>Request #</th>
<th>Item</th>
<th>Issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Policies, procedure and practices you follow to obtain cell phone location records</td>
<td>Relevant MCSO investigative polices referring to the execution of searches attached.</td>
</tr>
<tr>
<td>2</td>
<td>Data retention policies</td>
<td>Attached. Also please see Wis. Stat. § 19.21 for retention requirements applicable to local authorities.</td>
</tr>
<tr>
<td>3</td>
<td>The use of cell phone records to identify &quot;Communities of interest&quot;</td>
<td>No records exist responsive to this request.</td>
</tr>
<tr>
<td>4</td>
<td>The use of cell phone records to identify all of the cell phones at a particular location</td>
<td>No records exist responsive to this request.</td>
</tr>
<tr>
<td>5</td>
<td>Your use of digital fences</td>
<td>No records exist responsive to this request.</td>
</tr>
<tr>
<td>6</td>
<td>The legal standard you proffer to obtain cell phone records</td>
<td>Template examples of warrant affidavits and warrants that may be sought to access cellular telephone records attached. In summary these templates are used to teach new detectives of the appropriate manner and format for accessing cellular telephone records</td>
</tr>
</tbody>
</table>
records. Some redactions exist, relating to items revealing law enforcement techniques (Linzmeyer, 254 Wis. 2d 306) the revelation of which would impair the ability of investigating officers to function effectively.

7 Judicial decisions and orders
Not a record maintained by the MCSO.

8 Statistics regarding your use of cell phone records
No records exist responsive to this request. In summary, public records law does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester. Also, an authority is not required to create a new record by extracting and compiling information from existing records in a new format.

9 The form in which cell phone records are provided
Not a record maintained by the MCSO.

10 Communications with cell phone companies and providers
In general, no records exist responsive to this request as it relates to agreements or directives between cellular telephone service providers and the MCSO, in regards to accessing phone records in investigative matters. Specific cell phone records may have been accessed in specific criminal cases. However, a request must be reasonably specific as to the subject matter and length of time involved to prevent unreasonably burdening a records custodian by requiring the custodian to spend excessive amounts of time and resources deciphering and responding to a request. In order to inspect a record in a given investigation in which a cell phone record was accessed, I would need the date/defendant name.

In summary, the MCSO accesses cellular telephone records through the traditional securing of a warrant. We do not, and have not, tracked the locations of cell phones without one, absent an exigency to the warrant requirement.

Very truly yours,
DAVID A. CLARKE, JR., SHERIFF
Milwaukee County, Wisconsin

By:
Edward H. Bailey, Inspector
Records Custodian
August 3, 2011

Transmitted by First Class Mail

Records Custodian
Milwaukee County Office of the Sheriff
821 W. State Street
Milwaukee, WI 53233-1488

Re: Request Regarding Cell Phone Location Records

To the Records Custodian:

This is a request under the Wisconsin Open Records Law, Wis. Stat. §§ 19.31 et seq., by the American Civil Liberties Union of Wisconsin Foundation. The ACLU of Wisconsin defends and promotes the fundamental principles embodied in the Bill of Rights and the U.S. and Wisconsin constitutions.

I. Background of this request.

This request concerns the ability of law enforcement agents to obtain records from cell phone companies that reveal the past or present travels of cell phone users.

Cell phone technology has given law enforcement agents the unprecedented ability to track individuals’ movements. As of December 2010, over 96% of the overall population of the United States carried a cell phone—an estimated 302.9 million people.¹ Even the most basic cell phones can be tracked. Cell phones can be tracked in real time, and cell phone companies frequently retain records on the past travels of their customers.

The Constitution protects against unreasonable searches, and if the Milwaukee County Sheriff’s Department obtains cell phone location records, the conditions under which it does so are of great public interest. This is because records of a person’s travels can be very revealing. As one court recently explained, “A person who knows all of another’s travels can deduce whether he is a weekly church goer, a heavy drinker, a regular at the gym, an unfaithful husband, an outpatient receiving medical treatment, an associate of particular individuals or political groups — and not just one such fact about a person, but all such facts.”² The ACLU of Wisconsin believes that the Constitution does not permit law enforcement agents to track the location of cell phones without obtaining a warrant and demonstrating probable cause.

Accordingly, the ACLU of Wisconsin seeks records regarding the Sheriff’s Department’s obtaining cell phone location records from cell phone companies.

II. Request for records regarding acquisition of cell phone location records.

We hereby request disclosure of all records in your possession relating to your acquisition of cell phone location records. This request encompasses records regarding real-time tracking and records regarding where cell phones have been in the past, and it encompasses all available methods of locating cell phones, including “cell site,” triangulation, and GPS. This request includes but is not limited to the following records:

- Policies, procedures and practices you follow to obtain cell phone location records
- Data retention policies, detailing how long cell phone location records are kept, databases in which they are placed, and agencies (federal, state and local) with which they are shared
- The use of cell phone location records to identify “communities of interest” (detailing those persons who have been called, or called by a target) in investigations
- The use of cell phone location records to identify all of the cell phones at a particular location
- Your use of “digital fences” (systems whereby you are notified whenever a cell phone comes within a specific geographic area)
- The legal standard (e.g. probable cause, relevance) you proffer to obtain cell phone location records
- Judicial decisions and orders ruling on your applications to obtain cell phone location records
- Statistics regarding your use of cell phone location records, including the number of emergency requests for which no court order was obtained
- The form in which cell phone location records are provided (hard copy, through specific online databases)
- Communications with cell phone companies and providers of location-based services regarding cell phone location records, including
  - company manuals, pricing, and data access policies
  - invoices reflecting payments for obtaining cell phone location records
In this request, the term "records" includes all information recorded in any form whatsoever, including, but not limited to, papers, digital electronic media (such as computer discs, hard-drives, CDs, zip discs, USB or "jump" drives or media, or tape back-up), and analog recording media (such as audio and video tape recordings).

I request that the information be provided without charge pursuant to Wis. Stat. § 19.35(3)(e). A waiver of processing and copying charges in this case is in the public interest. The ACLU of Wisconsin Foundation is a not-for-profit charitable and educational organization dedicated to the protection of students' free speech rights. The records are not sought for commercial use. If charges for this request will exceed $50, please contact me prior to proceeding.

If any material responsive to this request is deemed to be exempt from disclosure, identify the material withheld and specify the asserted basis for the exemption. Please release all segregable portions of otherwise exempt material.

Note that Wisconsin law requires that requested documents be produced "as soon as practicable and without delay." Wis. Stat. § 19.35(4)(a). The Wisconsin Department of Justice policy is that 10 days is ordinarily a reasonable time for response to an open records request. Wisconsin Department of Justice, Wisconsin Public Records Law Compliance Outline at 13 (Aug. 2010).

If you have any questions about this request, please contact me at (414) 272-4032, ext. 212. Thank you for your prompt attention to this matter.

Sincerely,

Laurence J. Dupuis
Legal Director

1. Policy. Programs for proper management of county records are deemed necessary to promote economy and efficiency in the day-to-day recordkeeping activities of the county government and to provide for preservation and safekeeping of vital records.

2. Definitions. As used in this section:
   (a) "Record" means document, book, paper, photograph, sound recording, magnetic tape, microfilm, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business. Library and museum material, made or acquired and preserved solely for reference or exhibition purposes, and stocks of publications and unprocessed forms, are not included within the definition of records as used in this section.
   (b) "Unit" means any department, institution, office, commission, board or agency of the county excluding constitutional officers and the courts.
   (c) "County record" means any record prepared or received by any unit of the county government.

3. County records committee. The county records committee (hereinafter referred to as "committee") shall consist of the following five (5) members or their designees: corporation counsel; director of audits; director, department of administration, who shall serve as chairperson; director of public works; and director of the county historical society.

The department of administration shall furnish necessary staff assistance to the committee. The committee shall provide general guidelines to the department records management program to promote efficient and economical management methods for the retention, preservation and disposition of county records.

4. Duties of committee. The committee shall, with due regard for the functions of the units concerned:
   (a) Establish standards, procedures and techniques for effective management of records. This shall include standards for use of filing equipment, microfilm, central records depositories, methods of record destruction, etc.
   (b) Establish procedures for preparation of schedules providing for retention of county records of continuing value, and for prompt and orderly disposal of records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping.
   (c) Establish procedures to insure the maintenance and security of the county's vital records.
   (d) Obtain reports from units as are required for the administration of the program.
   (e) Approve retention schedules.
   (f) Establish safeguards against unauthorized or unlawful removal or loss of county records, including the right to initiate action to recover county records removed unlawfully or without authorization.

5. Duties of unit heads. The head of each unit shall:
   (a) Establish and maintain an active, continuing program for proper management of the records of the unit.
   (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the unit designed to furnish information to protect the legal and financial rights of the county and of persons directly affected by the unit's activities.
   (c) Submit to the committee for their approval, in accordance with the standards established by them, schedules proposing the length of time each county record series warrants retention for administrative, legal or fiscal purposes after it has been received by the unit.
   (d) Cooperate with the committee in the conduct of surveys made by them pursuant to the provisions of this section.
   (e) Comply with the rules, regulations, standards and procedures issued by the committee.

6. Records not to be damaged or destroyed. All records made or received by or under authority of or coming into custody, control or possession of county personnel in the course of their public duties are the property of the county and shall not be mutilated, destroyed, transferred, removed or otherwise damaged or disposed of, in whole or in part, except as provided by law.

7. Disposal of records. No record shall be destroyed or otherwise disposed of, by any unit of the county, unless done so in accordance with the adopted retention schedule and notification to the county and/or state historical society, if required. This section does not supersede sections of the statutes establishing specific retention schedules.

8. Destruction of nonrecord materials. Nonrecord materials or materials not included within the definition of records as contained in this chapter may, if not otherwise prohibited by law, be destroyed at any time by the unit in possession of such materials without prior approval of the committee. However, this presupposes notification to the law library as specified in section 100.06(1) of the Code. The committee may formulate procedures and interpretations to guide in disposition of nonrecord materials.

9. Appeal procedure. Any unit head may appeal from a decision or regulation of the committee to the county
board committee on judiciary, safety and general services, whose decision shall be final.

(10) **Rules and regulations.** The committee shall promulgate such rules and regulations as are necessary or proper to effectuate the purposes of this section and the related laws of the state.

(11) **Progress reports.** Progress reports shall be sent to the county board and the county executive when so directed by the committee. The report shall describe the status and progress of programs established pursuant to this section and shall set forth the recommendations of the committee for improvements in the management of county records including benefit quantification of such recommendations.

(12) **Statistical reports and summaries provided to individuals and groups not a part of county government.**

(a) Statistical reports and summaries of county records may be provided to individuals and groups not a part of county government, provided that:

1. Release of such information is not prohibited under any state statute or county ordinance,
2. Approval is given for release of such information by the head of the unit responsible for the maintenance of records to be used in preparation of the summary or report, and,
3. Approval for the preparation of the report is given by the department of administration, if required under subsection (b)(2) hereof.

(b) A preparation processing charge shall be made to the individual or group requesting the summary or report. Such charge shall be determined in the following manner:

1. The unit head, with the assistance, if requested, of the data processing division of the department of administration, shall determine the cost involved in preparation, by consideration of the time, personnel, and equipment required for preparation of the summary or report.
2. In the event the estimated cost of such summary or report exceeds fifty dollars ($50.00) and requires the use of the county's data processing systems or of time of employees of the department of administration, the approval of said department shall be obtained before preparation of the report. In granting its approval the department of administration shall determine a priority schedule for the retrieval of the requested information, to prevent interference with the department's customary processing of county records.

(c) This section shall not apply to any summaries or reports which the county is required to furnish free of charge under the provisions of any federal or state statute.
AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

State of Wisconsin  )
 ) s.s.
Milwaukee County

I, DETECTIVE JANE DOE, a law enforcement officer with the ________________________ Department, having been duly sworn, hereby state under oath the following:

I. INTRODUCTION

Your affiant states that affiant is employed as a detective with the ________________________ Department, so employed for ____ years and have been a law enforcement officer for approximately ____ years. Your Affiant is currently assigned to the ________________________[INSERT DIVISION – ________________________] and has been so assigned for the past ____ years. In the course of your affiant’s experience, your affiant has been involved in investigations of ________________________

[DESCRIBE AREA OF EXPERTISE – EXAMPLE] ________________________

A. PRIOR EXPERIENCE

In my employment as a law enforcement officer for over ____ years, including my assignment as a detective with the ________________________ my responsibilities have included the investigation of criminal violations of [INSERT AREA OF INVESTIGATIVE RESPONSIBILITY TO WHICH PHONE SEARCH WARRANT RELATES] of Wisconsin state laws.

Based upon my review of ________________________ reports, personal knowledge and information from fellow law enforcement officers, I believe that ________________________ is involved in the [INSERT CRIME INVESTIGATING – EXAMPLE] ________________________

B. LOCATION FOR WHICH AUTHORIZATION TO SEARCH IS SOUGHT

Your affiant submits this affidavit in support of a search warrants relating to any cellular telephone(s) on the person of ________________________. Said search warrant is to include any stored telephone numbers, address book names, voice
mail, video clips, photographs and related information stored within said cellular telephone.

C. INFORMATION IN SUPPORT OF THE SEARCH WARRANT

Based upon the facts described below, I believe that there is probable cause to believe that a search of the information contained within the above cellular telephones will produce evidence of a crime, namely evidence related to [THIS IS THE PROBABLE CAUSE SECTION - INSERT INFORMATION ESTABLISHING PROBABLE CAUSE THAT EVIDENCE RELATED TO A CRIME WILL BE FOUND ON THE PHONE -

1. Through my training, experience and discussions with other experienced law enforcement officers, I am familiar with the ways in which drug traffickers conduct their unlawful trade, including their methods of distribution, their utilization of communication devices, their use of coded communications to conduct their transactions, the employment of counter surveillance, their use of false or fictitious identities and their utilization of various forms of property to store and/or conceal their controlled substances, monies and other fruits of illegal activities, and I know that:

   (a). Drug traffickers commonly keep books, records, receipts, notes, ledgers and other papers relating to the transportation, purchase, packaging, sale and distribution of controlled substances. They also maintain books, papers and documents that reflect names, addresses and/or telephone numbers of their drug suppliers, couriers, customers and other associates in the drug trafficking organization;

   (b). Drug traffickers sometimes store documents and records relating to their suppliers, customers, money and assets on computer hardware and software, the contents of which frequently yield evidence of drug trafficking and money laundering crimes. This information is also stored on their cellular telephones, which contain numbers dialed, listings of telephone numbers which include customers and suppliers of controlled substances;

   (c). Drug traffickers commonly hide controlled substances, proceeds of drug sales and records of drug transactions, drug sources and drug customers in secure locations within their residences, offices, garages, storage buildings, vehicles and safety
deposit boxes for ease of access and to conceal such items from law enforcement authorities, and communicate with others assisting traffickers in the above activities;

(d). Drug traffickers commonly keep large amounts of United States currency at their disposal in order to maintain and finance an on-going drug trafficking business;

(e). Drug traffickers conceal in their residences, as well as those of associates and family members and/or places of business, the proceeds of their illegal activity, including large amounts of United States currency, financial instruments, precious metals, jewelry, rare coins, works of art and other items of value, as well as books and records regarding the acquisition, use and disposition of such items of value, and communicate with others on cellular telephones related to the above activity;

(f). When drug traffickers amass large proceeds from the sale of drugs, they attempt to legitimize these profits, often by using the services of foreign and domestic banks, other financial institutions and real estate brokers, and that books and papers related to such efforts, including but not limited to, cashier’s checks, money orders, telegrams, telexes, letters of credit and ledgers, are maintained in their residences and/or places of business; drug traffickers communicate with individuals assisting in the activity over cellular telephones.

(g). Drug traffickers usually keep paraphernalia related to the packaging, cutting, weighing and distribution of drugs, including but not limited to, scales, plastic bags, sifters, strainers, spoons, cutting agents and money counting machines, and that such paraphernalia is often secreted or stored in their residences, the residences of family and associates and/or places of business;

(h). Drug traffickers frequently take, or cause to be taken, photographs of themselves, their associates in the drug trade, property acquired from the distribution of drugs and such photographs are often kept in their residences and/or places of business; and personalize cellular telephones with such information;

(i). Drug traffickers very often place communication devices (i.e. telephones) and assets, including real and personal property such as vehicles, in nominee names to avoid detection and forfeiture of such assets by government agencies, and continue to use these assets and to exercise dominion and control over them even though the assets are nominally owned by others, and,
(j) Drug traffickers often keep firearms and ammunition in their residences for the protection of their illegal enterprise and assets.

2. Affiant knows that cocaine as defined in Wisconsin Statutes section 961.16(2)(b)(1) is a Schedule II controlled substance; affiant also knows that marijuana (tetrahydrocannabinol) as defined in Wisconsin Statutes section 961.14(4)(t) is a Schedule I controlled substance; further that cocaine as defined in Title 21 United States Code Sec. 802 is a Schedule II controlled substance.

3(a). INSERT SPECIFIC PROBABLE CAUSE HERE RELATED TO THE PHONE IN QUESTION – HOW IT WAS RECOVERED, HOW PROBABLE CAUSE EXISTS THAT IT WAS USED IN SUCH ACTIVITY

4. Based on my training and experience, I know that individuals involved in drug trafficking frequently use cellular telephones to maintain contact with their sources of controlled substances as well as customers and co-conspirators in the distribution of controlled substances; therefore records contained within said cellular telephones will provide evidence related to the identity of said supplier(s), co-conspirators, as well as customers or suppliers contacting related to the trafficking in cocaine and other controlled substances.

5. [OPTIONAL PARAGRAPH RELATED TO NEED TO PROTECT INVESTIGATION – SPECIFIC FACTS MUST BE ARTICULATED AS WELL AS THE GENERAL EFFECT OF DISCLOSURE – SEE THIS EXAMPLE] Affiant requests that said search warrants be sealed as this investigation is on-going and the revealing of this investigation at this time would jeopardize the identity of confidential informants presently providing information related to the targets; further associates of would become aware of the nature of the investigation and knowledge of the search warrant would alert the target of the search warrant and the associates to the investigation and result in the destruction of evidence, as well as alerting co-conspirators and other members of the organization to the existence of the investigation..
WHEREFORE, your affiant requests said search warrant issue for all records, data, photographs, videos and information stored within any cellular telephone(s) on the person of [redacted] in the County of Milwaukee, Wisconsin, all of the above evidence related to the following offenses: [INSERT APPROPRIATE STATUTES HERE RELATED TO CRIME – SEXUAL ASSAULT, KIDNAPPING, ROBBERY ETC] Possession of Cocaine, Possession of Cocaine With Intent to Deliver, committed in violation of Wisconsin State Statutes, sections 961.16(2)(b)(1), 961.41(1m)(cm) and 939.05.

Detective Jane Doe

Subscribed and sworn to before me
This ______ day of _____Month, 2006

Notary Public, State of Wisconsin
Milwaukee County
My commission expires:
CIRCUIT COURT
SEARCH WARRANT       FIRST JUDICIAL DISTRICT    MILWAUKEE COUNTY

STATE OF WISCONSIN    )
MILWAUKEE COUNTY     ) ss. In the Circuit Court of the First
                     ) Judicial District of Wisconsin

The State of Wisconsin, to any sheriff or any law enforcement officer of the State of Wisconsin:

WHEREAS Detective NAME OF OFFICER, a law enforcement officer with the •••••••••••••• assigned to the •••••••••••• Division, has this date complained, by attached affidavit, to this court upon oath, showing probable cause that on •••••••••••• in the City and County of Milwaukee, Wisconsin, there is now located and concealed in and upon certain premises located at ••••••••••••, Milwaukee, Wisconsin, more particularly described as a cellular telephone, ••••••••••••,

-- certain goods, chattels and property, to wit:

1. The contents of said portable electronic telecommunication equipment; all records, data and information contained within said telephone, including but not limited to voice mail, any names, telephone numbers, called or received number listings, video clips and photographs, all of which may provide evidence of the offense of [NAME OF STATUTORY SECTIONS – EXAMPLE Possession of Heroin, Possession of a Controlled Substance – Heroin WTID and Delivery of Heroin, and committed in violation of sections 961.41 (3g) a (1), 961.41 (1m) (d) 1 and 961.41 (d)1] of the Wisconsin Statues.

The objects of said search and authorization to search may provide evidence of the offense of [NAME OF STATUTORY SECTIONS] of the Wisconsin Statues.

NOW THEREFORE in the name of the State of Wisconsin, you are commanded forthwith to search the said premises for said things and take possession thereof if found.

You are further commanded to return this warrant within 48 hours before the Assistant Chief Deputy Clerk for the Circuit Court, Crime, Misdemeanor, Traffic Division or his designee, to be dealt with according to law.

Witness, The Honorable ____________________________, Circuit Court _____________ for the First Judicial District of Wisconsin at Milwaukee, Wisconsin

On ___________________, 2006 at _________ a.m./p.m.

__________________________
Honorable
Judge of the Circuit Court
Branch ________

- 4659 -
IN THE MATTER OF A
SUBPOENA FOR DOCUMENTS
OF «COMPANYNAME»

TO: «COMPANYNAME»
«CareOf»
«Dept»
«Attn»
«Address1»
«Address2»
«CityStateZip»

VIA FAX: «DeliveryFax»

YOU ARE HEREBY REQUIRED TO APPEAR ON «AppearanceDate» at «AppearanceTime» before the Honorable , Judicial Court Commissioner for Milwaukee County, Preliminary Hearing Court, Room 146 of the Milwaukee CJS, 949 North 9th Street, Milwaukee, Wisconsin, 53233, and to bring with you the following documents including, but not limited to, any books, papers, records, computer or electronic data, and the copies of records related to the phone number(s) on the attached page, including but not limited to 1) billing name and information, subscriber name and information, billing address, application for phone service, length of service, related to the phone number(s) listed on the attached page; 2) AND ONLY IF REQUESTED, copies of any records, books, papers, recordings, tapes, films, or computer or electronic data and all billing records for the indicated telephone number(s) since «CallPeriod», relating to records of calls from said number(s), including local and long distance records for said number(s), this subpoena for records relating to all calls including a copy of said records in any digital or electronic format in which this information may be kept.

In lieu of appearing at the above time and place, you are hereby authorized to provide the above-described documents to «CaseAgentTitle» «CaseAgentName» of the «CaseAgentOrg».

Dated at Milwaukee, Wisconsin, this ______ day of ___________________, 20_____.

By the Court

[Signature]
Judicial Court Commissioner
Milwaukee County, Wisconsin

«SubpoenaNo»
SUBPOENA SERVICE

I hereby certify that I have served this Subpoena to the Custodian of Records at the above institution by faxing/mailing the Custodian of Records a copy of it on ________________________________.

______________________________
IN THE MATTER OF A  
SUBPOENA FOR DOCUMENTS  
OF «COMPANYNAME»,  
CASE: «CASE»

ORDER

The Court, having read the attached affidavit of «CaseAgentTitle» «CaseAgentName» of the «CaseAgentOrg», finds that probable cause exists to believe that the documents named in the attached subpoena constitute evidence of the crime of «AddInfo1», committed in violation of Wisconsin Statutes secs. «AddInfo2». The Court also finds that probable cause exists to believe that the documents named in the attached subpoena are now under the custody and control of the Custodian of Records of «COMPANYNAME».

THEREFORE, the Court orders that the attached subpoena shall issue pursuant to section 968.135 of the Wisconsin Statutes. The Court further orders that the existence of said subpoena shall not be disclosed to the account-holder or other persons than those necessary to insure compliance with this subpoena.

Dated at Milwaukee, Wisconsin, this ______ day of __________________, 20______

[Signature]
Judicial Court Commissioner
Circuit Court, Preliminary Hearing Court
Milwaukee County
STATE OF WISCONSIN

IN THE MATTER OF A

SUBPOENA FOR DOCUMENTS

OF «COMPANYNAME»

CIRCUIT COURT«CourtOrder»
CRIMINAL DIVISION
MILWAUKEE COUNTY

SUBPOENA RETURN

I hereby certify that by virtue of the attached Subpoena which I have received from the Custodian of Records to whom this Subpoena was directed, the documents required by that Subpoena; and I now have these documents in my possession subject to the disposition of the Circuit Court.

Dated at Milwaukee, Wisconsin, this ______ day of __________________, 20____.

Subscribed and sworn to before me this

____ day of __________________, 20____

Notary Public, State of Wisconsin
My commission

«SubpoenaNo»
602.00 General Investigations (CID)

DIRECTIVE NO. 03-07

March 7, 2007

TO BE DISTRIBUTED TO ALL MEMBERS
MEMBERS TO READ AND BECOME FAMILIAR WITH

RE: 602.00 Criminal Investigations Division / General Investigations Unit (GIU)

602.01 Purpose

The Milwaukee County Sheriff’s Office Criminal Investigations Division’s General Investigations Unit (GIU) is responsible for investigating matters that include, but are not limited to: complaints of crimes committed within Milwaukee County; requests from local, state, and Federal law enforcement agencies; requests from foreign law enforcement agencies; investigations that have multiple jurisdictional boundaries; and requests from citizens and private entities.

Additionally, members of the General Investigations Unit (GIU) perform a number of duties as mandated by applicable portions of the Wisconsin State Statutes, including transportation of prisoners arrested on extraditable offenses and the service of civil writs.

Investigations forwarded to GIU are assigned by the Criminal Investigations Division (CID) Sergeant(s), the Division Captain, Deputy Inspector, the agency Shift Commander on duty at the time of referral, or by the Sheriff or his/her designee.

602.02 Policy

Members of the MCSO assigned to the GIU are governed by the general policies, procedures, rules and regulations of the agency. All members assigned to CID/GIU are expected to maintain strict confidentiality on matters not suitable for public dissemination.

602.03 General Areas of Responsibility

- Investigation of crimes that occur on County owned land and associated buildings
- Investigation of crimes referred to the agency by the Milwaukee County District Attorney’s Office, as approved by the Sheriff or his/her designee
- Special investigations requested by other agencies as approved by the Sheriff or his/her designee
- Investigation of crimes reported by citizens and private entities
- Coordination and interstate transportation of:
  1. prisoners arrested and held on a Milwaukee County criminal writ by an agency outside the state of Wisconsin
  2. prisoners arrested and held in Milwaukee County on a criminal writ for an agency outside of the state of Wisconsin
- Secure storage and inventory of all evidence, drugs, monies, and property seized by members of the agency
- Completion of sworn and civilian background investigations

- 4664 -
• Service of Temporary Restraining Orders requiring removal of the defendant from the petitioner’s residence
• Service of criminal writs
• Service of civil writs
• Assignment to various task forces and interagency focus groups as approved by the Sheriff or his/her designee
• Liaison positions with all municipalities within the county
• Evidence technician duties for all bureaus and divisions within the agency, and for other agencies, upon request
• Plainclothes security for designated court and county hearings, as approved by the Sheriff or his/her designee

602.04 Captain Responsibilities

Under the direction of the Deputy Inspector of the Police Services Bureau (PSB), the Captain of the Criminal Investigations Division shall have the following specific duties and responsibilities as they relate to the GIU:

• Review and approval of all GIU tactical operations upon conclusion of a briefing by the Officer in Charge (OIC) of the operation
• Supervision of the sergeant(s) assigned to the GIU
• Supervision of SIU staff and investigations
• Supervision of Criminal Investigations Division clerical staff
• Review and approval of all newly developed procedures within the GIU
• Development and reporting of annual performance objectives
• Preparation and review of all budgets relating to the GIU
• Review and approval of all purchased equipment and supplies
• Completion of Internal Affairs investigations as directed by Internal Affairs personnel
• Review and approval of assignments/investigations to GIU personnel

602.05 Sergeant Responsibilities

Under the direction of the Captain of the Criminal Investigations Division (CID), the GIU sergeant(s) shall be responsible for the following duties and responsibilities:

• Development and assignment of detective and clerical work schedules, which maintain adequate staffing for daily, special, and on-call assignments and emergency deployments
• Completion of daily roll call, reading of agency memoranda, inspection of detectives and their equipment to ensure compliance with agency rules and regulations
• Assignment and review of cases referred to GIU for investigation
• Entry of case information into case management database
• Supervision of CID personnel, including detectives, clerical staff, hourly investigators, and personnel assigned to CID while on light or administrative duty
• Supervision of detectives assigned to various task force and liaison duties
• Assignment of personnel to training courses that enhance investigative abilities
• Review of all summary arrests by GIU personnel
• Review and approval of all offense and incident reports, citations, and other written documentation generated by GIU personnel
• Completion of detective/investigator activity documentation, verbal counseling, and entry of pertinent information into employee database
• Completion of internal investigations, as directed by the CID Captain
• Planning and implementation of warrant and special operations
• Assignment of various criminal and civil matters for service
• Management of agency unmarked vehicle fleet, including submission of monthly vehicle report to Deputy Inspector and Captain
• Distribution of released sex offender community notification bulletins
• Assignment of background investigations to Hourly Background Investigators and detectives
• Liaison for Milwaukee County's Child Abuse Response Team (CART)
• Collection and management of agency property and evidence inventory, including annual clearance and destruction of evidence no longer required to be maintained
• Assignment of personnel to interstate prisoner extraditions and other conveyances
• Review of CID wage reports and overtime expenditures, including submission of biweekly overtime expenditure report to Deputy Inspector and Captain
• Assistance in preparation of annual GIU budget report
• Distribution and management of equipment, including dispersal and collection of cellular telephone bills
• Development, monitoring, and reporting of annual performance objectives

Sergeants assigned to CID/GIU, when not on-duty during regular work hours, shall be available on an on-call capacity to respond to incidents that require GIU involvement.

A CID supervisor is required to respond immediately to any of the following:

• Suspected homicides which occur on county-owned land or in county buildings
• Suspected suicides that occur on county-owned land or in county buildings
• Sudden unattended deaths that occur on county-owned land or in county buildings
• Squad accidents involving CID personnel during duty hours
• During off-duty hours, a CID sergeant shall respond to any personal injury accident involving CID personnel. If the accident is deemed to be a property only incident, the Patrol sergeant shall respond, along with the Watch Commander.
• On-duty injuries to CID personnel
• High-speed pursuits involving CID personnel
• Any incident that is deemed a "Major Incident" involving CID personnel
• Incidents involving hostages or barricaded subjects
• Officer-involved shooting incidents
• The home of any CID personnel who have not reported to work and where contact cannot be made by telephone, or to the last-known location of CID personnel who fail to respond to Communications dispatchers while on duty
• Natural disasters involving agency resources (tornados, etc.)
• Man-made disasters (train derailment, airplane crash, etc.) involving agency resources for investigation

602.06 Detective Responsibilities

Under the direction of the GIU Sergeant(s), CID Captain, Deputy Inspector of Police Services Bureau, Shift Commander, Sheriff or his designee, detectives shall be responsible for the following duties and responsibilities:

• Knowledge of Wisconsin State Statutes as they apply to physical and property offenses
• Familiarity with state and county civil laws as they apply to the service of Writs of Assistance, Writs of Restitution, Executions Against Property, Replevins,
Attachments, Three-Party Petitions and other mental health commitment orders

- Identification of, and comprehensive and efficient investigation of suspected criminal activity
- Ability to manage crime scenes, often as scene commander, including assignment of agency personnel to various tasks
- Knowledge of basic procedures involving recognition, preservation and collection of items of evidentiary value
- Knowledge of various methods of information gathering and development of cooperative relationships with entities capable of providing pertinent information
- Thorough case preparation, including presentation of criminal matters to the district attorney and other criminal justice entities
- Knowledge of, and proficiency in, techniques of interview and interrogation
- Proficiency in the development and implementation of search warrants and subpoenas
- Ability to develop, register, and maintain confidential informants
- Liaison contact with assigned county municipalities and/or task forces
- Timely response to incidents that occur while assigned to on-call status
- Timely processing and inventory of all evidence and property, in accordance with the agency's inventory procedures
- Completion of background investigations, as needed

602.07 Background Investigator (Hourly) Responsibilities

See policy and procedure relative to Backgrounds (608.00)

602.08 Clerical Responsibilities

Under the direction of the CID sergeants, CID Captain, and Deputy Inspector of Police Services Bureau, the clerical staff assigned to the Division shall be responsible for the following duties and responsibilities:

- Knowledge and completion of general clerical duties, including:
  - Entry of Division reports and other paperwork into various data systems
  - Answering telephone calls, responding to caller concerns, and directing callers to appropriate personnel, or to other county entities, as needed
- Monitoring of the CID service window, and responding to individuals who arrive at the CID office with questions or concerns
- Daily distribution of mail and interoffice correspondence
- Ordering of and maintaining office supplies
- Monitoring the maintenance on office equipment, (i.e. fax machines, copy machines, telephones and computers)

Clerical staff assigned to CID is expected to maintain absolute confidentiality regarding matters that, by nature of their job assignment, are disclosed to them.

602.09 Procedures

602.09.1 Investigations

The GIU shall investigate complaints or allegations of criminal wrongdoing that occur within Milwaukee County; complaints that originate from the Milwaukee County District Attorney's Office and are approved by the Sheriff for investigation; complaints that are referred from other law enforcement
agencies and are approved by the Sheriff for investigation; and complaints initiated by citizens and private entities.

The GIU Sergeants, CID Captain, or Deputy Inspector of Police Services shall review all complaints forwarded to the Criminal Investigations Division, and shall assign detectives to investigate those complaints that merit GIU involvement. The CID Captain shall maintain an up-to-date log of all matters assigned for investigation, including, at a minimum, the day/date of referral, referring source, and detective(s) assigned. Detectives shall confer with the Sergeant, or CID Captain on the status of each investigation and together the sergeant, captain and detective(s) assigned to each investigation will determine:

- If additional resources are required
- If the investigation should be referred to another entity for investigation (Ex: Drug Enforcement Unit, Federal Bureau of Investigation, United States Secret Service, etc.)
- How likely the investigation will result in arrest and prosecution, based upon a numerical score calculated from determining the following Solvability Factors:
  o Is there a reliable witness to the crime
  o Can the suspect(s) be named
  o Can the suspect(s) be located
  o Can the suspect(s) be described
  o Can the suspect(s) be identified
  o Is the stolen property traceable
  o Is there a significant Modus Operandi (M.O.) present
  o Is there sufficient physical evidence present
  o Can the case be solved with a reasonable amount of effort
  o Was there a definite limited opportunity for anyone except the suspect(s) to commit the crime

The absence of significant solvability factors may warrant discontinuation of the investigation, thereby closing the case pending additional information.

The sergeant shall confer with the Division Captain on a regular basis, reporting the status of cases currently under investigation. If, at any time, the Deputy Inspector requests the status of a particular investigation, that information shall be provided in a timely manner to the Deputy Inspector by the case detective, summarizing the findings and status of the investigation to date.

602.09.2 Case Management

Each investigation assigned to a GIU detective shall be entered by the sergeant into the Division's crime management database, which includes, but is not limited to, the following information:

- Date and Time of Offense
- Location of Incident
- Category of Crime
- Suspect, Victim, and Complainant Information
- Court Status of Charged Cases
- Case Disposition

Information entered into the crime management database may be used to generate reports regarding categories of crimes, types of arrests (summary, warrant), and other information that may be used to establish crime trends and to monitor activity within the Unit. Additionally, case management reports
may be generated in reference to individual detectives for the purpose of case status conferences and employee evaluations.

Detectives shall maintain a blue “Investigator’s Activity” card (form 1177-1) on every investigation. This card will remain within the investigative file folder, and will briefly summarize, by date, activity performed on the investigation.

Ten days after initiating a new investigation, the detective shall present the investigative file folder to the GIU sergeant for review. The sergeant will discuss the merits of the case with the detective, and together a determination will be made whether to continue the investigation or to close the case due to the absence of significant solvability. The sergeant will then sign the Investigator’s Activity card, indicating a review has been conducted.

If the investigation remains open, the detective must again review the case folder with the GIU Sergeant and CID Captain, thirty (30) days after initiation. The detective and sergeant will again examine the status of the investigation, and the sergeant will again sign the Investigator’s Activity card. The detective and/or sergeant may, at any time during the course of the investigation, request additional resources, etc., as deemed necessary to enhance the probability of successfully completing the investigation.

If the determination is made to discontinue the investigation, reasons for such shall be clearly stated in the case detective’s reports, as well as conditions under which the case may be reopened. In the crime management database, the sergeant shall close such investigations using the most appropriate disposition.

Upon completion of all reports, and once the investigation has been closed in the crime management database, the case folder shall be forwarded to CID clerical staff for storage in the collective GIU files, by case number. Additional information collected by the case detective, but not pertinent for the case file, may be stored within the detective’s personal office files.

602.10 Interstate Prisoner Transportation (Extraditions)

Prisoners arrested and held by law enforcement or correctional agencies outside of the state of Wisconsin on Milwaukee County writs shall be returned to Milwaukee County as soon as possible.

In accordance with Wisconsin State Statute 976.03, regarding Fugitives From Justice, upon verifying that a prisoner is available for pick-up outside of the state of Wisconsin, the extradition officer shall notify the sergeant. The sergeant will assign officers to return the prisoner to Milwaukee County within the time allotted by law, and as specified on the court’s extradition documents.

If agency officers are unable to complete the extradition within the allotted timeframe, or if transport by agency officers is cost prohibitive, the extradition officer may request that the Office of the District Attorney utilize the United States Marshal’s Service or Transcorp private extradition service to complete transport of the prisoner to/from Milwaukee County.

602.11 Intrastate Prisoner Transportation

Prisoners arrested and held by law enforcement or correctional agencies within the state of Wisconsin on Milwaukee County writs shall be returned to Milwaukee County as soon as possible.

The Detention Services Bureau’s Inmate Transportation Unit shall be responsible for the return of intrastate prisoners to Milwaukee County.
Wisconsin Statute 59.27(4) requires that the Sheriff "...serve or execute all processes, writs, precepts and orders issued or made by lawful authority and delivered to the sheriff."

**Eviction:**

Small Claims Chapter 799.45 of the Wisconsin State Statutes, governing Writs of Restitution, and Chapter 815.11, governing Writs of Assistance, dictate that the Sheriff shall, upon receipt of said writs, remove the defendant and all other persons claiming under the defendant from the premises, using such reasonable force as may be necessary.

Two sworn officers shall be assigned full time to the evictions squad, and shall lawfully proceed with the service of Writs of Restitution and Assistance in the following manner:

Upon receipt of a court-ordered Writ of Restitution or Assistance, the plaintiff (landlord or homeowner) shall pay applicable fees and retain a county-contracted private moving and storage service responsible for the removal and storage of defendant property found on the premises at the time of service of the writ. Upon payment of fees, the plaintiff may furnish to the Sheriff’s cashier keys for the premises, to better enable officers to enter the premises without forcible entry.

Once the evictions officers receive the Writs of Restitution and Assistance from the Process Division, they will assign the Writs to a removal date based on:

- The date each Writ was received in CID
- The private moving service that the plaintiff has retained for the removal

Writs of Restitution (eviction of a tenant from a rental property) must be served within ten (10) days from the date of receipt.

Writs of Assistance (eviction of a homeowner due to foreclosure, or eviction of a tenant renting the home from the homeowner) must be served within thirty (30) days from the date of receipt.

Officers shall remain at the premises, supervising the removal of all personal property that is not the property of the plaintiff. Ordinary care shall be exercised in the handling and storage of said property. When, in the exercise of ordinary care, the officer determines that property removed from the premises is without monetary value, the Sheriff may deliver or cause the same to be delivered to some appropriate place established for the collection, storage and disposal of refuse. In such case, the evictions officer shall notify the defendant of the location of said property within three (3) days of the removal of the property from the premises. The exercise of ordinary care does not include searching apparently valueless property for hidden or secreted articles of value.

In circumstances in which the plaintiff is not present at service of the Writ, and no keys have been furnished to the officers, and entry into the secured premises cannot be gained without force, officers are allowed to use whatever force is reasonably necessary to gain access to the premises for the purpose of complying with service of the Writ. If forcible entry is required, and the door to the premises can no longer be secured, and the plaintiff is not present, the evictions officer is required to remain at the property until a private service is able to secure the entryway to the premises through a "board-up" procedure. Only after this procedure is completed, and the premises is secured in a manner so as to prevent immediate entry of unauthorized persons, may the evictions officer leave the premises.
Upon service of the Writ, evictions officers shall note the time and date on which the Writ was served on a 50-A Process Report, which shall be returned with the Writ to the Evictions Court.

At any point prior to the service of the Writ, the plaintiff may contact the evictions officer requesting that service of said Writ be cancelled, and that the Writ be returned to the Evictions Court from which it originated. If a cancellation request is received prior to service, the evictions officer shall accurately and completely document said request on a 50-A Process Report, which shall be attached to the Writ prior to return to the court.

If, at any time after CID has received the Writ, the court orders a “Stay” until a specified future date, a copy of that Stay shall be forwarded to CID for inclusion with the original Writ, and the Writ shall not be served until after the date noted on the Stay, and only after confirming with the court that the Writ may then be served.

Execution:

Small Claims Chapter 815 of the Wisconsin State Statutes mandates that judgments of execution, in which the payment of money or the delivery of property is ordered, be served by the Sheriff.

There are three types of executions:

- Execution against the property of the judgment debtor
- Execution against the judgment debtor's person
- Execution for the delivery of property (Replevin)

Execution Against Property: An Execution Against Property directs that the judgment be satisfied out of the personal property of the debtor, which typically occurs in the form of cash payments. If insufficient personal property can be found, the judgment should be satisfied out of the real property belonging to the judgment debtor on the day the judgment was entered or at any time thereafter.

Real Estate: If real estate has been attached and a judgment rendered, the execution may direct a sale of the defendant's interest in the real estate. Service of these actions is completed by sworn officers assigned to the Process Division.

Judgment to Enforce a Lien: Upon receipt of a judgment to enforce a lien upon specific property, the execution shall direct the officer to sell the interest that the defendant had in that specific property at the time the lien was attached.

Execution Against the Person: If the execution is against the person of the judgment debtor, the execution may require the officer to arrest the judgment debtor and commit him / her to the county jail until the judgment debtor pays the judgment or is discharged according to law.

Replevin:

Small Claims Chapter 810 of the Wisconsin State Statutes dictates that, when the court issues a judgment stating that the plaintiff is entitled to property that is wrongfully detained by the defendant, and that said property is believed to be at the location noted on the Writ, the Sheriff shall take the property from the defendant or such persons as are acting on behalf of, in concert with, or under control of the defendant, and deliver possession of the property to the plaintiff.
When the execution requires the delivery of real or personal property, it may be issued to the Sheriff of the county where the property, or some of the property, is located. Executions may be issued at the same time to different counties. Certain property is exempt from execution, and is so specified in Section 815.18 of the Wisconsin State Statutes.

**Attachment:**

Small Claims Chapter 811 of the Wisconsin State Statutes dictates that a Writ of Attachment, which is a paper issued by the judge on request of the plaintiff at any time after a summons and complaint has been filed but before final judgment, shall be directed to the Sheriff in the county in which the property is located, and that the Sheriff shall attach all property of the defendant within the county or so much thereof as may be sufficient to satisfy the plaintiff’s demand, together with costs and expenses.

If the attachment requests a specific dollar amount, a supplemental hearing shall be held to assess what property the respondent has; this eliminates the requirement of the Sheriff to make a determination of assessed value of the respondent’s property. Unless the plaintiff is the state, county, town, or municipality, a bond shall be filed with the court, by the plaintiff, in an amount set by the judge issuing the writ.

Writs of Execution, Attachment, and Replevin shall be executed by the officer in the manner proscribed by law, within sixty (60) days of receipt. These matters are very complex, therefore, the officer must receive clear, concise direction from the court, as well as from the attorneys for both the plaintiff and defendant, if applicable. Corporation Counsel shall be sought for legal advice for all matters on which the detective requires clarification.

**Mental Health Conveyance (Court-Ordered):**

Chapter 51 of the Wisconsin State Statutes, also known as the Mental Health Act, defines the state’s intention to assure the provision of a full range of treatment and rehabilitation services for all mental disorders and developmental disabilities and for mental illness, alcoholism and other drug abuse. In order to accomplish this, persons in need of such services, who have not been detained by law enforcement under State Statute 51.15 (Emergency Detention), may be located and transported to the Milwaukee County Mental Health Complex (MCMHC) for treatment under the following circumstances:

- **Affidavit of NonCompliance:** A person who was conditionally released from the MCMHC after voluntarily agreeing to terms of outpatient treatment, and who violates those terms, is eligible for re-detention. The complainant (case manager, family member, etc.) must contact Corporation Counsel, who drafts an Affidavit of Non-Compliance that is signed by a Court Commissioner. The Affidavit is then forwarded from Corporation Counsel to the Sheriff for service.

- **Letter of Authority:** A person who was committed to treatment who has been conditionally released, and who violates the conditions of release, may be detained and returned to MCMHC at the request of the doctor or medical director. The individual requesting the re-detention must draft a Letter of Authority, which is sent directly to the Sheriff for service.

- **Petition for Examination:** Persons (family members, friends, etc.) who collectively express documentable concern for the mental welfare of an individual may petition Corporation Counsel for an involuntary order to treat that individual. The petition must include signed affidavits from three concerned persons, which are then reviewed by a Court Commissioner. Upon issuance by the Commissioner, the Petition is forwarded to the Sheriff for service.
• **Order for Conveyance:** An Order signed by a judge directing that Sheriff’s personnel convey an individual from one mental health facility to another may be forwarded to the Sheriff from Corporation Counsel. Once received in CID, detectives transfer the individual to the requested location on the date and time directed by the Order.

Orders for Conveyance may direct the Sheriff to transport the individual to/from a facility outside the county, but within the state of Wisconsin. The Sheriff retains the right to seek reimbursement for said conveyances.

**Temporary Restraining Order:**

Due to the potential volatility of court orders requiring removal of an individual from his/her residence, such attempts for service shall be attempted by two-officer squads at a minimum. Temporary Restraining Orders (TROs) requiring removal of the defendant from the residence of the petitioner shall be forwarded from the Special Operations Bureau’s Process Division to CID for service. The CID sergeant shall assign the TRO to a sworn officer, who shall, with at least one additional sworn officer, serve said Order upon the defendant, escorting him/her from the residence, and notifying him/her of the date, time, and location at which to appear for the court hearing. The officer shall provide the defendant with a copy of the Order, and shall sign and date the copy upon service.

Officers shall make every reasonable effort to locate the defendant and serve said Order, exhausting all necessary investigative methods. Orders received in CID with court appearance dates 10-14 days from the date of receipt should have at least three attempts for service. Every attempt for service shall be noted on a 50-A Process Report, with the names, addresses, telephone numbers, etc., of individuals with whom the officer makes contact regarding the defendant.

If the court grants an extension of the original TRO, a copy of that extension shall be forwarded to the officer in possession of the original Order. The officer shall continue attempts to serve the defendant with the Original Order and Extension in the same manner.

If, despite exhaustive attempts, the officer is unable to serve the TRO upon the defendant prior to the court hearing date and time, the officer shall complete a pink "Return Without Service" report (form 1003 r6), indicating the reason why the defendant was not served. The Return Without Service report shall be attached to the TRO (and Extension, if applicable), and shall be returned to CID clerical staff, who shall then return the TRO to the Process Division.

602.13 **Warrant Service**

The return of subjects on warrant status to court is a vital necessity to maintain the integrity of the criminal justice system. Without service, those with outstanding criminal warrants who remain at large are held accountable for the crimes they are alleged to have committed, and the victims are not afforded the protection they seek from the criminal justice system.

The GIU shall, therefore, conduct regular operations for the purpose of locating and apprehending subjects who are wanted on outstanding criminal warrants. These operations may be theme-based, targeting particular offenses of public concern, or random. Following completion of the operation, the GIU sergeant(s) shall complete an after-action report, which will be forwarded to the CID Captain and Deputy Inspector of Police Services Bureau.

602.14 **Inventory Vault**
Under the supervision of the CID Captain and management of the GIU Sergeant(s), and assisted by the Administrative Assistant, CID shall maintain strict control of the agency's inventoried property and evidence within designated secured areas authorized by the Sheriff. Items received by officers throughout the agency shall be placed into inventory in accordance with current procedures, and shall, as soon as feasible, be turned over to the GIU sergeant(s) for storage in the inventory vault, until such a time as the items are returned to the owner or are deemed eligible for destruction.

Designated staff, under the supervision of the GIU sergeant(s), shall be tasked with conducting an annual inventory audit, during which items eligible for removal shall be purged, and those items with value shall be turned over to Sheriff's Fiscal for auction.

602.15 Eyewitness Identification: Photo Arrays, Live Lineups, Show-ups, Facial Composites

Eyewitness identification has always been a powerful tool for investigating and prosecuting criminal cases. Eyewitness evidence can be the most important and convincing evidence in a case. Research and nationwide experience suggest that eyewitness evidence can be fragile, and that eyewitnesses can be mistaken. Eyewitnesses can make identification errors, but those errors may be difficult to detect, because the witnesses are sincere and have no motive to lie. When wrong, they usually are not being deceitful, but are simply mistaken. To reduce the risk of wrongful conviction and aid in the detection and apprehension of the guilty, officers should adhere to procedures set forth here in order to maximize the reliability of identifications, minimize unjust accusations of innocent persons and to establish evidence that is reliable and conforms to established legal procedure.

602.15.1 References

- Eyewitness Evidence: A Trainer's Manual for Law Enforcement (September, 2003), United States Department of Justice

602.15.2 Definitions

Photo Array: The sequential showing of multiple photographs to an eyewitness for the purpose of obtaining a positive identification.

Live Lineup: The presentation of a number of individuals, including a suspect, sequentially before an eyewitness.

Show-up: The presentation of one suspect to an eyewitness within a short time following commission of a crime.

602.15.3 Procedures

Photo Arrays & Live Lineups; General Considerations:

- Choose non-suspect fillers who fit the suspect's description and that minimize any suggestiveness that might point toward a suspect;
- Use 'double blind' procedures, in which the administrator is not in a position to unintentionally influence the witness's selection;
Specifically instruct eyewitnesses that the real perpetrator may or may not be present and that the administrator does not know which person is the suspect;

Present the suspects and fillers sequentially (one at a time) rather than simultaneously (all at once.) This encourages absolute judgments of each person presented, because eyewitnesses are unable to see the subjects all at once and are unable to know when they have seen the last subject;

Assess eyewitness confidence immediately following an identification. Carefully document a witness’s response before any feedback from law enforcement;

Avoid multiple identification procedures in which the same witness views the same suspect more than once.

Show-ups / General Considerations:

Some courts have suppressed identification evidence based on the use of show-ups due to inherent suggestiveness of the practice. Therefore, the use of show-ups should be secondary in preference to the use of photo arrays or lineups when possible. However, when exigent circumstance requires the use of a show-up, the following guidelines should be considered:

Document the eyewitness’s description of the suspect carefully prior to the show up;

Whenever practical, transport the eyewitness to the location of the suspect. Show-ups should not be conducted at law enforcement headquarters or other public safety buildings;

Specifically instruct eyewitnesses that the real perpetrator may or may not be present;

Show-ups should not be conducted with more than one witness present at a time. If identification is conducted separately for more than one witness, witnesses should not be permitted to communicate before or after any procedures regarding the identification of the suspect;

The same suspect should not be presented to the same witness more than once;

Show-up suspects should not be required to put on clothing worn by the perpetrator. They may be asked to speak words uttered by the perpetrator or to perform other actions of the perpetrator;

Words or conduct of any type by officers that may suggest to the witness that the individual is or may be the perpetrator should be scrupulously avoided;

Assess eyewitness confidence immediately following an identification;

Show-up identifications are only to be conducted in instances in which the suspect is identified in close time and physical proximity to the incident being investigated, and in instances in which the law enforcement officer lacks probable cause to make an arrest in the investigation;

If a show-up identification is made in an investigation, no other type of identification (i.e.: lineup, photo-lineup) is to be used in that investigation.

Approved:

David A. Clarke Jr., Sheriff
606.00 Drug Enforcement Unit (DEU)

DIRECTIVE NO. 11-06

June 28, 2006

TO BE DISTRIBUTED TO ALL MEMBERS
MEMBERS TO READ AND BECOME FAMILIAR

RE: 606.00 DRUG ENFORCEMENT UNIT (DEU)

606.01 Purpose

The Milwaukee County Sheriff's Office (MCSO) recognizes that an important part of the Agency's vision to make Milwaukee County the safest County in the State of Wisconsin involves efforts to enforce the controlled substances laws and regulations of the State. The MCSO further supports the need for public education programs.

It is the intent of the Drug Enforcement Unit to provide the citizens of Milwaukee County with a highly trained, dedicated and disciplined corps of law enforcement professionals capable of properly conducting undercover drug investigations.

606.02 Policy

The Drug Enforcement Unit (DEU) of the Police Services Bureau's (PSB) Criminal Investigations Division (CID) will function as the agency's primary unit to accomplish drug-related responsibilities.

606.03 Definitions

Mutual Aid

A statewide system, operating under the authority of the Wisconsin State Statute Chapter 66, designed to ensure that adequate resources, facilities, and other support are provided to jurisdictions whenever their own resources prove to be inadequate to cope with a given situation.

Exigent Circumstances

Emergency conditions characterized by circumstances that would cause a reasonable person to believe that an immediate action or series of actions must be taken, outside of routine protocols, as necessary to prevent physical harm to officers or citizens; to prevent the destruction of relevant evidence; to prevent the escape of a suspect; or to prevent some other consequence improperly frustrating legitimate law enforcement efforts.

Informant

A person who agrees to cooperate with Law Enforcement Officers by obtaining information and/or evidence of violations of applicable laws, often in exchange for compensation or consideration in pending criminal cases. Informants agree to cooperate with a given agency of their own free will, and in doing so do not become agents or employees of that agency or the State of Wisconsin.
Source of Information

A Source of Information is a civic minded, non-criminal information source that wishes to remain anonymous who provides information to Law Enforcement on a frequent or infrequent basis.

Controlled Substance

Substances, including narcotics, stimulants, depressants, hallucinogens, anabolic steroids, and chemicals used in the illicit production of illegal drugs that are regulated under existing State and Federal law into one of five schedules. This placement is based upon the substance's medicinal value, harmfulness, and potential for abuse or addiction.

Search Warrant

A written order issued by a Judge or Magistrate in the name of the State, directing a Law Enforcement Officer to enter private property and to search for evidence of the commission of a crime or the proceeds of crime, or for property that the officer suspects may be used to commit a crime. These court orders are obtained on the basis of a sworn statement by the requesting Law Enforcement Officer that establishes a showing of probable cause and precisely describes the place to be searched and a description of the item(s) being sought.

Case Agent

The detective that is primarily responsible for conducting a specific criminal investigation. Case Agents, in consultation and with the approval of their superiors in the Chain-of-Command for the agency, generally make the day-to-day decisions of how to best proceed in conducting the investigations that comprise their investigative caseload.

Undercover

A method used by Law Enforcement and intelligence agencies, of disguising one's identity and maintaining an alternate persona for the purposes of gaining the trust of an individual or organization to learn secret information, gather evidence or acts of wrongdoing through clandestine tactics.
Prior to the execution of a search warrant operation, a planning meeting will be held including at minimum: the case agent; the DEU Sergeant; the Officer in Charge (OIC) of the SWAT Unit or any other tactical Unit being utilized to make entry to the site to be searched.

The DEU Sergeant shall be briefed of the operation and must approve the operation in writing prior to the execution of the operation.

The tactical plan to accomplish the search warrant operation including, at minimum:

- Verification of the validity of the Search Warrant
- Verification of the exact location and description of the building to be searched and, if known, the identity of the persons in physical control of that location
- Verification that the OIC of the tactical unit being utilized to make entry to the site to be searched has completed, within the preceding 12 hours, a visual surveillance of that location
- Assignment of personnel to specific duties within the context of the tactical operation
- Verification of a communication plan that will allow all members of a Search Warrant or Tactical Arrest Operation to speak with each other during the execution of the operation.

During Search Warrant and Tactical Arrest Operations, all personnel participating in the operation shall be properly equipped, including, at minimum:

- An agency issued firearm
- Flashlight
- Handcuffs
- Agency issued body armor or protective, bullet-resistant vests
- Radio capable of monitoring/broadcasting on the frequency to be used for that operation
- Raid wear attired with a clearly readable Sheriff's Office identifier, issued by the DEU.
Exigent Circumstances

In determining if exigent circumstances exist the law enforcement official should consider the following:

1. the degree of urgency,
2. the amount of time needed to get a warrant,
3. will the evidence be removed or otherwise destroyed,
4. the danger of the site,
5. do the suspects know that the police are after them, and
6. the fragileness of the evidence. (United States v. Reed, (4th Cir. 1991)1

Most cases involving exigent circumstances involve the fragile nature of electronic data. Some common things that could lead to destruction of data include: computer commands, temperature, humidity, physical mutilation, and magnetic fields. The existence of exigent circumstances does not give law enforcement officials the ability to search and /or seize items beyond that which are necessary to prevent the destruction of evidence.

“The Big Two”

United States v. Parada, 289 F.Supp.2d 1291(D. Kan. 2003) (“Because a cell phone has a limited memory to store numbers, the agent recorded the numbers in the event that subsequent incoming calls effected the deletion or overwriting of the earlier stored numbers. This can occur whether the phone is turned on or off, so it is irrelevant whether the defendant or the officers turned on the phone. . . . [U]nder these circumstances, the agent had the authority to immediately search or retrieve, as a matter of exigency, the cell phone's memory in order to prevent the destruction of this evidence.”)

(warrantless search of cellular phones justified by exigent circumstances; similar to Parada)

Incident to Arrest cases of note:

United States v. Murphy, 552 F.3d 405 (4th Cir. 2009) (upholding search of cell phone incident to arrest because call logs and text messages are volatile, i.e., evidence may disappear as new calls and text messages are received)

United States v. Finley, 477 F.3d 250 (5th Cir. 2007) (upholding search of cell phone incident to arrest)
United States v. Ortiz, 84 F.3d 977 (7th Cir.1996) (upholding search of a pager incident to arrest because of the device’s finite memory and the potential for new messages crowding out existing ones)

United States v. Santillan, 571 F.Supp.2d 1093 (D. Ariz. 2008) (upholding search of cell phone incident to arrest; alternatively, the search was valid under the exigent circumstances doctrine, because of the risk that incoming calls and text messages would crowd out calls and text messages of evidentiary value)

United States v. Urbina, 2007 WL 4895782 (E.D. Wis. Nov. 6, 2007) (unpublished) (upholding search of cell phone incident to arrest, but stating in dicta that “[i]n the case before this court, [the officer] limited his search to the phone’s address book and call history. If the evidence in a future case were to show that the warrantless search conducted by law enforcement was essentially equivalent to a search of a personal computer, without sufficient exigencies to justify such a search, the court’s reaction may be different, because of the substantial invasion of privacy.”)

Automobile Exception
Because automobiles are highly mobile and because drivers have reduced expectations of privacy in automobiles as opposed to residences, automobiles in public places may be searched based on probable cause without a warrant. Such a vehicle search may extend to any location in the vehicle, including closed containers, where the object of the search may reasonably be found. United States v. Ross, 456 U.S. 798 (1982). Thus, where there is probable cause to believe that evidence of a crime may be found in a particular vehicle, it may be permissible to treat any electronic devices in the car as “containers” and to search the devices to the extent that the search reasonably might uncover evidence of the crime in question.

United States v. Rocha, 2008 WL 4498950 (D. Kan. Oct. 2, 2008) (unpublished) (holding, as to cell phones found in RV in which drugs were being transported, “[b]ecause probable cause existed to believe that evidence of a crime would be found in the cell phone information, the automobile exception allows the search of the cell phones just as it allows a search of other closed containers found in vehicles”)

United States v. James, 2008 WL 1925032 (E.D. Mo. April 29, 2008) (search of cell phone that was inside vehicle justified: “Because probable cause existed to believe that evidence of a crime would be found in the cell phone call records and address book, the automobile exception allows the search of the cell phone just as it allows a search of other closed containers found in vehicles.”)

State v. Novicky, 2008 WL 1747805 (Minn. Ct. App. April 15, 2008) (unpublished) (search of cell phone on front seat of vehicle was justified under automobile exception; evidence of ownership of the cell phone was likely to be relevant evidence in establishing the ownership of the gun that was next to it)