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From: Schimel, Brad D. <Schimelbd@doj.state.wi.us>

Date: Fri, Dec 8, 2017 at 4:17 PM

Subject: RE: Michael Bell shooting review

Dear Mr. Harrower,

Thank you for your correspondence regarding the 2004 death of Michael Bell in Kenosha County. Michael Bell's death was a very tragic incident, and I understand why some members of the community are concerned. As you know, Michael Bell's father would like to see criminal charges filed against one or more of the officers involved in the death of his son.

Michael Bell's death occurred when former Attorney General Peg Lautenschlaeger was in office, but, unfortunately, she was not willing to meet with Mr. Bell, did not give his concerns serious consideration, and did not direct her Department of Justice to conduct any investigation. Even though many years had passed by the time I took office, I met with Mr. Bell and his attorney and we had a pleasant meeting. Mr. Bell is a good man who served our country honorably in the Air Force, and I respect him and am saddened by his loss.

I agree with Mr. Bell on a number of points: his son should not have lost his life; his son should not have fought with police; and it is very likely that the officer was mistaken in his belief that Michael Bell was trying to take his gun. Many years ago, Mr. Bell brought a civil lawsuit in which the City of Kenosha also apparently agreed with Mr. Bell and ultimately settled, paying him \$1,750,000.

There are, however, unavoidable structural impediments to bringing a criminal case relating to the death at this time. First, and most significantly, the statute of limitations expired in 2010. With some specific exceptions that do not apply in this case, the statute of limitations for felonies in Wisconsin is six years from the date of the crime. While it may have been possible for the former Kenosha County D.A. or my predecessor Attorneys General to consider charges, by the time I took office in 2015, the statute of limitations prohibited any charge relating to the death. I shared this fact with Mr. Bell and his attorney, and they understood the restrictions under the law. I understand why Mr. Bell is upset and wants something done, but he knows that it is simply not possible for me to do what he wishes.

Second, one of the two officers directly involved is no longer alive. Thus, he could no longer be charged, nor could he be a witness against the other officer in any trial or provide any information to investigators. He has taken whatever information he may have to the grave with him, and even if charges were possible, the case would be left with holes we could not fill without that officer.

Mr. Bell also seeks perjury charges against the officers relating to statements they made during sworn depositions in the case. Mr. Bell and his attorney pointed out some instances in which statements made by the officers conflict with some of the physical evidence. At best, the officers were mistaken in their description of the events. At worst, they might have lied. As I noted, however, it is not possible to charge the officer who is deceased. It is also not possible to charge the other officer, since it has been far

more than six years since the depositions, and the statute of limitations has expired for any potential perjury charge.

Mr. Bell and his attorney have conducted a comprehensive investigation as part of the civil case, but there are some facts that will never be known, because all of these years later, there is simply no way to know them because some evidence is not available, recollections are not fresh, and some witnesses are not available.

While it is hard to find any good in any of this, there is one positive legacy. Mr. Bell successfully led an effort to create a first-in-our-nation law governing the investigations of officer use of force. When officers are involved in a death, an outside agency must now take the lead in conducting a thorough investigation and all reports must be made public after a decision is made by the prosecuting attorney responsible for the review of the officer's actions. The law that Mr. Bell helped create went into effect in April 2014 and has greatly improved transparency and reliability of such investigations. As a citizen and a law enforcement official, I am grateful to him for his work to change our law.

Michael Bell's death is tragic, but 13 years later, I cannot undo the way it was investigated. The most I can do is commit to ensuring our investigations of similar events are unbiased and thorough. Mr. Bell wishes to see further changes going forward, and we will continue to engage in discussions about how we can continue to improve our practices.

I share your concerns about the nature of the investigation into the death of Michael Bell. I also understand why Mr. Bell still feels deprived of justice. However, given the passage of time, it is simply not possible for me to take action.

Very truly yours,
Brad Schimel
Wisconsin Attorney General