



## DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor  
Joel Brennan, Secretary  
Anne L. Hanson, Chief Legal Counsel

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April 19, 2021

Via E-Mail

[REDACTED]

Dear [REDACTED]

This letter is to update you of the status of your records request to the Department of Administration (“DOA”), which we received on March 18, 2021, seeking “all communications relating to the damage of the Wisconsin State Capitol, state-owned buildings around the Capitol Square, and Capitol statues during the June riots, specifically from May 31st, 2020 – July 31st, 2020.”

DOA has received multiple public records requests regarding this matter, but we are unable to respond to these requests at this time because this matter is currently the subject of an ongoing prosecution. In consultation with the Dane County District Attorney, we have determined that release of the requested records at this time (before the preliminary hearing is complete and before discovery is sent to defense counsel) would prejudice the integrity of the prosecution. Applying the common-law balancing test, the strong public interest in effectively investigating and prosecuting criminal activity, avoiding prejudicial pretrial publicity, and protecting the integrity of an ongoing prosecution, outweigh any public interest in disclosing the requested records at this time. See *Linzmeier v. Forcey*, 2002 WI 84, ¶30, 254 Wis. 2d 306, 327, 646 N.W.2d 811, 819 (“[T]here is a strong public interest in investigating and prosecuting criminal activity, and when the release of a police record would interfere with an ongoing prosecution or investigation, the general presumption of openness will likely be overcome.”).

We have therefore determined that a temporary delay in our response is necessary, but only until such time as release of the requested records will not interfere with the ongoing criminal prosecution of this matter. The preliminary hearing was recently rescheduled, and the case is currently scheduled for a status conference on Friday, April 23, 2021. In the meantime, we will continue to hold your request open, with the intent to respond as soon as we are able to do so, and without additional delay. We anticipate this will be promptly after the preliminary hearing in this matter is complete and the District Attorney’s Office has provided discovery materials to defense counsel.

Please let us know if you have any questions about your request in the meantime.

Sincerely,

David J. Rabe  
Legal Counsel

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