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Press Release

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### **FEDERAL OFFICIALS CLOSE THE INVESTIGATION INTO THE DEATH OF THE LATE DEREK WILLIAMS**

Washington, D.C. and Milwaukee, Wisconsin -The United States Department of Justice announced today that there is insufficient evidence to pursue federal criminal civil rights charges against any Milwaukee Police Department officer for the in custody death of the late Derek Williams on July 6, 2011.

Officials from the Office of the United States Attorney for the Eastern District of Wisconsin, the Justice Department's Civil Rights Division, and the Federal Bureau of Investigation (FBI) met today with the Williams family and its representatives to inform them of this decision.

The Justice Department conducted a comprehensive and independent investigation of the events surrounding the arrest of Mr. Williams, who died while in the custody of Milwaukee police officers. Specifically, special agents of the FBI interviewed over fifty civilian and law enforcement witnesses; consulted with various medical experts on Mr. Williams' cause of death; conducted a physical examination of the involved squad car and recording system; and, visited and canvassed the scene. Those special agents of the FBI also analyzed the patrol car video of the incident; the police radio transmissions; the autopsy reports; the testimony and exhibits admitted at the public inquest; the Milwaukee Police Department's investigative file, including all the eyewitness and forensic evidence; the Milwaukee County District Attorney's Office's memorandum declining state charges; the City of Milwaukee's Fire and Police Commission's report; and, the report of the special prosecutor.

Under the applicable federal criminal civil rights law, prosecutors must establish, beyond a reasonable doubt, that a law enforcement officer willfully deprived an individual of a constitutional right, meaning with the deliberate and specific intent to do something the law forbids. This is the highest standard of intent imposed by law. Mistake, misperception, negligence, or poor judgment are not sufficient to establish a federal criminal civil rights violation. Specifically, the team of prosecutors and FBI agents considered two types of potential violations of federal criminal civil rights law. First, they considered whether any Milwaukee police officer violated the law by willfully using unreasonable force during Mr. Williams' arrest.

Second, they examined whether the officers willfully and unreasonably failed to respond to Mr. Williams' medical need.

The federal investigation revealed no medical evidence to corroborate the use of unreasonable force by any officer, such as using excessive force while restraining Mr. Williams on the ground. The vast majority of the witnesses interviewed provided no evidence of a willful violation of the applicable civil rights statute. The two civilian eyewitnesses who reported observing unreasonable force gave inconsistent and conflicting accounts that could not be corroborated.

There is also insufficient evidence that the response by any officer to Mr. Williams' medical needs was objectively unreasonable or carried out with willful intent. The investigation did not reveal evidence that the officers had notice of Mr. Williams' medical need, and the officers stated they did not know he had a medical need. The squad car video depicting Mr. Williams' death as he sat in the back of the vehicle is tragic and alarming to watch, but the evidence does not establish that the video duplicates what the officers saw in the back of the squad car that night. The infrared camera, which captures images with little or no light, clearly showed Mr. Williams in the back of the car. However, it cannot be established that this was the vantage point of the subject officers for several reasons. First, there is no backseat lighting in the car and there were minimal artificial lighting sources where the squad car was located. Next, each officer had custody of Mr. Williams for only a short duration of time and no officer watched Mr. Williams for the entire time that he was in distress in the squad car. Finally, there is no evidence that the officers were watching Mr. Williams on the squad car monitor in the front seat.

Although Mr. Williams made repeated statements to officers that he could not breathe, the officers observed him to be breathing. Based on both officer and civilian witness testimony, the lack of more significant physical signs of asphyxiation diminished the officers' beliefs that Mr. Williams was in any distress. Furthermore, the officers responded with medical treatment once it was obvious to them that Mr. Williams needed help. The facts do not establish beyond a reasonable doubt a willful failure to act in response to a known medical need.

Finally, after consulting with various medical experts, some of whom later testified at the county public inquest, the cause of Mr. Williams' death remains unknown; it is equally unclear that any delay by officers in providing medical attention to Mr. Williams contributed to his death. Therefore, after a careful and thorough review, a team of experienced federal prosecutors and FBI agents determined that the evidence was insufficient to prove, beyond a reasonable doubt, that any Milwaukee police officer acted willfully with a bad purpose to violate the law. Accordingly, the investigation into this incident has been closed without prosecution.

The Office of the United States Attorney U.S. Attorney for the Eastern District of Wisconsin, the Civil Rights Division of the United States Department of Justice, and the FBI devoted significant time and resources into conducting a thorough and independent investigation. The Justice Department is committed to investigating allegations of civil rights violations by law enforcement officers and will continue to devote the resources required to ensure that all allegations of serious civil rights violations are fully and completely investigated. The Justice

Department aggressively prosecutes criminal civil rights violations whenever there is sufficient evidence to do so.

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