STATE OF ALASKA
OFFICE OF VICTIMS' RIGHTS

Senator Fred Dyson
State Capitol, Room 121
Juneau, AK 99801

February 24, 2014

RE: SB 108 – Limit Public Access to Criminal Records

Dear Senator Dyson:

As the Director of the Alaska Office of Victims' Rights (OVR), I write this letter to express my opposition and non-support of SB 108, Limit Public Access to Criminal Records, introduced on January 22, 2014.

As the victims' advocate and a former prosecutor, I have grave concerns about this proposed law which I have outlined below. I believe this bill will inhibit the ability of our citizens to protect themselves, and potentially create more victims of crime in our state. The government and the criminal justice process is generally reactive rather than of proactive. Generally speaking, it is up to citizens to do what they can to prevent themselves from becoming victims of crime. Your bill will significantly impede the ability of citizens to have access incoming information which could help them protect themselves, their children, their loved ones, their homes and their businesses.

Points in Opposition to the bill:

- **There is a significant difference between being "innocent" and being found "not guilty."** Verdict forms provided to jurors specifically use the phrase "not guilty" because the jury is not finding the person is innocent of the charge(s); only that the government failed to prove the guilt of the person by failing to prove each element of the offense beyond a reasonable doubt (the highest standard of proof in our criminal justice system). A verdict of "not guilty" does not equate to a person being "innocent" of a crime. A "not guilty" verdict can be returned due to suppression of evidence, jury nullification, witness intimidation, loss of witnesses due to death or relocation, etcetera. I have talked to jurors of either "hung" or "not guilty" verdicts who have said they thought the person did the crime but just didn't feel the evidence was sufficient to prove it "beyond a reasonable doubt." "Not Guilty" at trial does not mean innocent of criminal wrongdoing.
- **Cases are dismissed by the Department of Law for a variety of reasons.** Examples include: they can include: dismissal of one case for pleas in another, loss of key evidence due to death or relocation of witnesses, suppression of evidence, loss of evidence, witnesses taking the fifth and no longer available to testify, recanting witnesses, inconclusive lab results, etcetera. These are all components in the prosecution of a case which can lead to a dismissal but do not necessarily mean the accused is innocent. False

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accusations are rare. While there are those who are falsely accused, the general idea that "victims lie" is a sterotype perpetuated by this bill, and which primarily translates into "women lie" given most victims in our state are females.

- **No law or measure can prevent false accusations from occurring and this bill sweeps much farther than necessary to address those cases.** I would be the first to encourage the Department of Law to prosecute anyone who makes a false allegation. It is a serious offense to falsely accuse someone of a crime. During my time as a prosecutor, I charged and convicted several women for falsely accusing people of crimes. For those falsely accused, if there is such evidence, a process should be devised in by which they could have their record cleared. There are more precise measures, which could be employed for this. SB 108 is far too broad and should be abandoned. If the legislature wishes to provide a remedy for those falsely accused of a crime, it should draft a more narrowly-worded bill specifically addressing only those who can establish they have been falsely accused of a crime. The government, when considering reducing a citizen's freedom of information, should do so, if at all, in the most limited fashion possible to remedy the harm the law seeks to prevent.
- **In the case of felony charges, those charges and the evidence to support those charges are already vetted in the grand jury process.** Alaska law requires a citizen body, the grand jury, to hear the evidence in felony matters and determine if there is sufficient evidence to proceed with the charge(s). The grand jury is charged with the instruction that it shall find an indictment when all the evidence, including exculpatory evidence, when taken together, if unexplained or uncontradicted, would warrant a conviction at trial. Therefore, there are already protections in the system to make ensure there is evidence supporting indictment.
- **The government cannot protect its citizens day to day; the public should be empowered with access to information it can use to its' protection.** For instance, as a mother should be able to look at a Courtview records and decide whether to entrust a person with my child. I should have the right to have the information and use it as I see appropriate. This bill takes a very paternalistic position that the government knows better than citizens about how to use information. It is the government saying citizens are too stupid or too unsophisticated to understand it. The phrase "knowledge is power" is true. This bill effectively strips citizens of the power to make informed.
- **Courtview presents information in an objective format.** It reflects the charges and the disposition. Moreover, the court system has even gone a step further to emphasize a charge does not mean a person has been found "guilty."
- **Our communities have changed and Courtview reflects those changes we have seen in society, especially the change in how citizens gather information.** In decades past, communities were smaller. People connected face to face. They knew their neighbors' names at a minimum. This type of interpersonal association and communication allow people to "know" who was around them and to protect themselves. Those days are mostly gone. We are a more mobile society so the connections once easily forged in communities is now frayed by citizens on the move from village to village, village to the city and to other states. Instead of being dependent on our neighbors, families and fellow citizens for information, we are reliant upon the media and electronically available data. Our citizens should be given the freedom to collect information to better their lives and in

the case of information from Courtview to allow citizens to be proactive in their own safety.

- **If you follow the logic of this bill, then Courtview should be purged of every traffic ticket issued but unsubstantiated, every dismissed lawsuit, every civil trial finding for the defendant, or any domestic violence protective order or stalking order not issued**. Citizens technically could be negatively affected in these circumstances too. The law should be consistent in its attempt to protect people if it is going to take that path.
- We are bombarded with the concept of transparency these days. I have spent time on committees in which I have heard arguments that transparency of government is important for the citizenry and should be pursued. This bill makes government less transparent. Transparency is important and to now seek to limit information for the entire population to possibly cure an apparent wrong to a very very few seems hypocritical to the goal of transparency.

As the victims' advocate, I believe more citizens will be victimized by curtailing access to this information. All of our citizens should be empowered to learn as much as they can to best protect themselves, especially in a state with such high statistics for domestic violence, sexual assault and sexual abuse. The Office of Victims' Rights vehemently opposes Senate Bill 108 on behalf of the crime victims and potential crime victims in our state.

Respectfully,

Taylor E. Winston, Director
Alaska Office of Victims' Rights