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May 30, 2018

Advisory Committee on Rules
New Hampshire Supreme Court
One Charles Doe Drive
Concord, NH 03301

Dear Chief Justice Lynn and members of the Advisory Committee on Rules,

On May 24, 2018 the Board of Directors of the New Hampshire Press Association voted to express its opposition to the proposed Supreme Court Rule requiring the suppression of "a crime victim's name, address, place of employment or other personal information in any petition, motion, brief, memorandum or other pleadings" in cases where the offender "upon conviction may be punished by imprisonment for more than one year or an offense expressly designated by law to be a felony."

Foremost, the proposal violates the public's fundamental right to know as prescribed by the New Hampshire Constitution and the Right to Know Law. Part 1 article 8 of the Constitution mandates that public access to governmental proceedings "shall not be unreasonably restricted," a tenet accentuated by the Right to Know Law's preamble: "Openness in the conduct of public business is essential to a democratic society." Indeed, a democratic society is not served by a rule requiring the blanket prior restraint of essential information of an otherwise public pleading.

The rule is further compromised by its vague definition of "victim." To qualify as a victim a person need only be "threatened" with "physical, emotional, psychological or financial harm," and not only by the "actual" commission of a crime, but also by the "attempted" commission of a crime. With such loose language, it's difficult to imagine who wouldn't qualify as a victim entitled to anonymity.

And that leads to another of the rule's failings, the lack of a burden of proof. Victim information would be removed from any felony case regardless of whether there is a demonstrated privacy interest and regardless of the crime. The circumstances of each victim are unique, yet this rule supposes that all victims are inherently entitled to absolute privacy. This is in obvious contravention of current law (Petition of

Keene Sentinel) which maintains the withholding of court information must be justified as in the public interest.

The rule's logic is curious as well. Affected cases reaching the Supreme Court presumably would have already been adjudicated in open court trials where victim information would already be part of the public record. So, who or what is protected? Of course, there are cases when victim anonymity is justified. But those decisions should be made, as they are now, by the judicial system on a case-by-case basis - not mandated by an arbitrary regulation. Existing Supreme Court Rules (12-2) carefully explain, in recognition of the legal complexities, conditions justifying victim anonymity. We are concerned this new rule would subvert those existing procedures which have served the state well.

The balance between the public's right to know and a victim's right to privacy is a delicate one. To date, we believe New Hampshire courts have done well in maintaining equilibrium. With its vague and arbitrary wording as well its diminution of our democratic principles, the proposed rule change would upset that equity.

Thank you for your consideration.



Vanessa Palange
President
New Hampshire Press Association