

STATE OF CONNECTICUT

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Testimony of Michelle Cruz, Esq., State Victim Advocate
Submitted to the Government, Administration and Elections Committee
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Good morning Senator Slossberg, Representative Morin and distinguished members of the Government, Administration and Elections Committee. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Proposed Senate Bill No. 38, *An Act Concerning the Freedom of Information Act and Division of Public Defender Services*

The Office of the Victim Advocate (OVA) has long supported the effort to establish certain limits on the release of sensitive information through the Freedom of Information (FOI) Act. During the last few legislative sessions, the OVA has put forth proposals to limit FOI's reach when the end result would be the release of private citizen's information. One such proposal was the OVA's privacy exemption for crime victims. This proposal related to the release of crime victim's private and personal information, which had been obtained through a criminal investigation conducted by our state's law enforcement agencies, and was sought later through FOI. This proposal would have provided a process to allow for the law enforcement agency to object to the release of this private information through a privacy exception and would be based on a reasonable person standard.

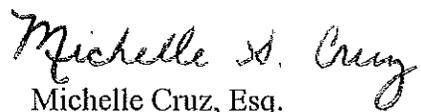
Last week the Judiciary Committee heard compelling testimony regarding the impact on surviving family members when sensitive information, such as autopsy records and photographs of a murdered child, is released to the public through the Freedom of Information Act. The Freedom of Information Act was created to hold our governmental agencies in check and to prevent corruption from continuing behind closed doors. The need for a process to ensure that public agencies and officials are held accountable and transparent in their actions remains today. However, FOI requests have grown over the years and have inadvertently strayed from the intended use. This problem is compounded by the state's Freedom of Information Commission (FOIC) and its binding authority. Our state's FOIC is the most powerful Freedom of Information Commission in the nation. This misuse of the Freedom of Information Act must be addressed. The intention of the FOI process was never to delve into the private individual, but rather to ensure our state and those acting on behalf of the state, are accountable and transparent.

The proposed legislation once again highlights a loophole in FOI practices in the state. The records and files of an attorney and their client, especially in cases where an

individual is accused of a crime, were never the intended target of FOI. If the Connecticut FOIC is allowed to intrude into the world of attorney-client privilege, the very criminal justice system is threatened. The purpose and intent of attorney-client privilege is rooted in the idea of instilling trust in this representation and fostering honesty with the client and attorney. To grant access through FOI will disseminate this long established principle in criminal defense cases. The ripple effect and unintended consequence of granting access to files of the public defender, which represent an individual accused of a crime, is that this intrusion will create appeal-able issues threatening the final disposition of all criminal cases. This will in turn short circuit the criminal justice system delaying justice for crime victims.

The OVA respectfully requests that the Committee review similar related proposals, as well as Proposed Senate Bill No. 38, and support a comprehensive proposal that addresses the needs of crime victims, public defenders and the employees of the OVA. Thank you for consideration of my testimony.

Respectfully submitted,


Michelle Cruz, Esq.
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