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**THE SUPREME COURT
OF THE STATE OF WASHINGTON**

DAVID KOENIG,
Respondent,

v.

THURSTON COUNTY and the THURSTON COUNTY
PROSECUTING ATTORNEY,
Petitioners.

**THURSTON COUNTY'S REPLY TO RESPONDENT
KOENIG'S ANSWER TO PETITION FOR REVIEW**

EDWARD G. HOLM
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I. ARGUMENT

A. Argument Summary

The Public Records Act (PRA) does not require the disclosure of the victim impact statement (VIS) *in this case* as that document is an investigative record compiled by the Thurston County Prosecuting Attorney's Office (PAO), the non disclosure of which is essential to effective law enforcement and for the protection of a person's right to privacy. While the County has presented a multitude of evidence from the victim, the deputy prosecuting attorney involved in the matter and professionals who work with crime victims, Koenig failed to provide any competent evidence supporting his claims. Instead of providing his own declarations, Koenig's only defense is to describe the County's witnesses who signed declarations under penalty of perjury as grossly exaggerating, biased and self serving; i.e., perjurers. *See* Respondent's Answer, pg. 11, 12, 19. If review is granted on this issue of the VIS, the Court of Appeals' decision upholding the trial court's ruling should be affirmed.

B. The VIS In This Case Is Exempt From Public Disclosure

RCW 42.56.240 provides in relevant part:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

...

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies...the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

RCW 42.56.240(1). Withholding the VIS is essential to protect the victim's right to privacy and is essential to effective law enforcement.

1. The VIS in this case is an investigative record compiled by the Thurston County Prosecuting Attorney's Office to assist in the sentencing decision.

Koenig argues that the VIS in this case is not an investigative record compiled by the Thurston County PAO. The simple fact is the Thurston County PAO obtains the information from a victim so the deputy prosecutor can use it for sentencing purposes. Koenig ignores the evidence when he argues the purpose of the VIS is to bypass the PAO. *See* Respondent's Answer, Pg. 6. However, that is not how the VIS was used in this case. The only evidence presented in this case is that the PAO sends out the form to the victim, and then provides the original to the court and a copy to the deputy prosecuting attorney for sentencing purposes. CP 105, CP 278. Koenig would like this Court to ignore how the County utilizes a VIS in investigating an appropriate sentencing recommendation. Koenig has failed to point to anything in the record that controverts the County's position.

Kim H. Carroll, Victim Advocate for the Thurston County

Prosecuting Attorney's Office, states:

As part of my job responsibilities as a victim advocate, I send out the Prosecutor's Office victim impact statement form to victims of crime. This is done for sentencing purposes. I provide the original to the court and a copy to the deputy prosecuting attorney handling the criminal matter. (CP 278.)

John Tunheim, Deputy Prosecuting Attorney, states:

The victim impact statement is a document provided to us by the victim of the crime. This document is a form that is completed by crime victims and gives them the opportunity to provide this office with information about the impact that the crime has had on the victim. (CP 105.)

This evidence in the record shows VISs are obtained by the Thurston County PAO to assist in the sentencing recommendation. A PAO uses a victim's statement about impacts of a crime when investigating the appropriate penalty. Instead of looking at how the Thurston County PAO uses VISs, Koenig focuses on the fact that the Court receives the VIS. That a judge may disagree with a PAO on a sentencing recommendation does not convert the county's investigative record into something else. Furthermore, that the information may be read by a judge during a sentencing hearing does not eliminate the fact that the deputy prosecuting attorney uses the information contained in the VIS prior to the hearing to make sentencing decisions. Finally, the VIS is not a pleading filed by a party in the criminal case. It is information provided by

the victim of a crime. The fact that the information is provided by a third party (the victim) and given to the PAO does not affect its status as an investigative record.

Similar arguments failed in *Cowles Publ'g v. Prosecutor's Office*, 111 Wn. App. 502, 507-08, 45 P.3d 620 (2002). In that case, the court held that documents obtained by a *prosecuting attorney's office* while investigating an appropriate penalty met the test of investigative records. *Id.* at 507-508.

But a prosecutor's office does investigate the accused and the alleged facts of the crime while preparing for trial. And one part of a prosecutor's investigation focuses on the question of an appropriate penalty.

Id. at 508.

Koenig attempts, but fails, to distinguish *Cowles*. Koenig infers that a document filed with the court can no longer be considered an investigative record. If that were true, police reports and witness statements filed with a court would suddenly no longer be deemed investigative records. In the case before this Court, the PAO was investigating the impact of the criminal defendant's actions. The PAO sought out and compiled the VIS as part of a specific investigation focused on Mr. Lerud. The prosecutor is entitled to argue for an appropriate penalty at sentencing. RCW 9.94A.500(1). An important factor at sentencing is the seriousness of the

offense, including the effect of the crime on the victim. RCW 9.94A.010(1); RCW 9.94A.500(1). Clearly, the information obtained by the deputy prosecuting attorney for sentencing purposes is an investigative record.

2. The VIS is an extremely private document that must not be disclosed to protect the victim's right to privacy.

Unlike a police report, a VIS is voluntarily provided by an individual who is not part of a law enforcement agency. The statement is extremely private and personal to the victim. This was made evident by the Declaration of Elizabeth Timm Andersen (CP 125-127), Declaration of David L. Johnson (CP 121-124), Declaration of Kim H. Carroll (CP 277-279), Declaration of Jon Tunheim (CP 104-108) and Declaration of Catherine A. Carroll (CP 116-120). The following are excerpts from the many declarations provided by Thurston County.

Elizabeth Timm Andersen, the victim of voyeurism in the related criminal matter, states:

I wish to make it very clear that I do not want copies of my Victim Impact Statement to be given to every member of the public who decides to ask for a copy. This statement is personal and private. I believed it would remain private, and I trusted the Prosecuting Attorney's office not to give out copies to whomever asked for it. The crime itself was one of invasion of privacy, thus it makes this demand for my impact statement that much more disturbing... I did not ask to be a victim of a crime, and I don't want to believe

that by being a victim of a criminal act that I've been stripped of my right to privacy. (CP 125-126.)

Catherine A. Carroll, legal director at the Washington Coalition of Sexual Assault Program since 2002, states:

I believe the privacy protections afforded survivors of sexual violence are fundamental to healing from being sexually victimized and must be respected...Having worked with more than a thousand victims, I have experienced the devastating and humiliating impact of these crimes upon victims...I believe that because society at large generally still adheres to negative stereotypes about women, that women continue to be blamed for their own sexual victimization, regardless of their actions...I further believe that as a result of victim blaming, most victims of sexual violence are very concerned about their privacy...I believe that the inherently offensive and intrusive characteristics of sexual violence that a victim experiences, and then is brave enough to share with the court, is private information provided to benefit the court in its decision making process regarding sentencing of the defendant. (CP 117.)

David L. Johnson, Executive Director of the Washington Coalition of Crime Victim Advocates, states:

People do not become a victim of crime voluntarily, and it is our firm belief that they should not sacrifice their individual privacy simply by virtue of becoming a victim of crime and then cooperating with law enforcement and the criminal justice system. Guaranteeing victims some sense of privacy is absolutely essential in enlisting their cooperation with the system; cooperation which in turn serves the public good...In addition, Victim Impact Statements are a very crucial part of the sentencing process, and a right guaranteed to crime victims by Washington statute (RCW 7.69.030(13)) and the Washington State Constitution (Const. art. I, § 35). In an attempt to protect the privacy of the victims, most judges correctly and compassionately seal those Victim

Impact Statements after the sentencing. Releasing those sealed records to just any member of the public would be a great disservice to crime victims, would tend to dissuade them from cooperating with law enforcement and the criminal justice system, and could put the victim's safety at risk. We argue that the system should protect crime victims, and not expose them to further danger and/or public humiliation...A Victim Impact Statement may contain historical information about past abuse and experiences that the victim may not have divulged previously. (CP 123.)

Kim H. Carroll, Victim Advocate for the Thurston County

Prosecuting Attorney's Office, states:

Victims have a statutory right to give a statement to the court at the time of sentencing (RCW 7.69). Often times, victims prepare and provide these statements to the State prior to completion of investigations and adjudication. Victim Impact Statements typically contain descriptions of embarrassing, intimate and violent acts. A victim should have the expectation of privacy. They have been violated enough by the act of the offender, but to know their raw emotions and most painful experiences as described in their own words could be released to the public upon a simple request, could lead the victim to decide not to make an impact statement. (CP 277-278.)

John Tunheim, Deputy Prosecuting Attorney, states:

I decided not to provide Mr. Koenig a copy of the victim impact statement because of the private nature of this document. In sexually based offenses, victims are often put in a position of describing events and circumstances that they feel are degrading and humiliating...For many years, this office has taken a "victim centered" approach to prosecution. As part of that philosophy, I believe that a victim's privacy must be closely guarded and only compromised when necessary in the interests of justice...Furthermore, the legislature (RCW 7.69.010) has mandated that prosecuting attorneys vigorously protect the

rights of crime victims which include the right to be treated with dignity, respect, courtesy and sensitivity. (CP 105-106.)

RCW 42.56.050 provides the statutory standard to determine when a person's right to privacy is violated from a disclosure under the PRA.

A person's "right to privacy," ...is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public...

RCW 42.56.050. The above excerpts make it clear that the test is met when it comes to a VIS. First, disclosing how a sex related crime has personally impacted your life would be highly offensive to any reasonable person that was a victim of such a crime. This is supported by the excerpts of professionals that work with crime victims.

Koenig's solution is to limit a VIS to facts that are not offensive to the victim.

Unlike the content of a police report, the victim has total control over the content of a VIS. The victim is not required to include any information that the victim does not wish to disclose...

Because the VIS is intended to be disclosed in open court, it should not contain factual details that would be highly offensive to a reasonable victim...

See Brief of Appellant to Court of Appeal, Pg. 19. Koenig's suggestions are ludicrous. Koenig recognizes that disclosing details of impacts to victims of sex crimes will be highly offensive to a reasonable person, but,

therefore, concludes these details should be left out of the VIS. This conclusion is wrong. The fact is that VISs *do* contain information that is highly offensive to a reasonable person. It is imperative these intimate details of the impact a crime has on a victim are presented to the court for sentencing.

Second, how a sex crime has impacted the victim is not of legitimate concern to the public. This Court in *Koenig v. City of Des Moines*, 158 Wn.2d 173, 185, 142 P.3d 162 (2006), has analyzed the “privacy” exemption in the context of a request made to obtain sexually explicit material in police reports. This Court provides helpful analysis on what information is not of legitimate concern to the public.

Interpreting “legitimate” to mean “reasonable,” we have also held that where “the public interest in efficient government could be harmed *significantly more* than the public would be served by disclosure,” the public concern is not legitimate and disclosure is not warranted.

Id. at 185. Clearly, a statement written by a victim of a sex crime is much different than a police report written by a public peace officer. The public interest in efficient government would be harmed significantly more than the public would be served if the VIS is disclosed. Law enforcement’s need for VISs containing the *full and true* impacts to the victim significantly outweighs the public’s right to see what a crime victim has put in a very personal statement. With all of the records available to the

public (police reports, witness statements, court file, etc.), it is not of reasonable/legitimate concern to the public to see the *personal* impact as provided by a victim in her own words in the VIS.

Finally, Koenig's veiled attempt to discredit the experienced professionals that provided declarations supporting the County must be disregarded. All of the County's declarations regarding the VIS came from professionals with many years of experience working with crime victims. Koenig failed to provide one piece of evidence refuting the County's experienced witnesses regarding VISs. Koenig's attack on the credibility of the County's experienced witnesses is baseless and unsupported. Instead of initiating an evidentiary hearing, Koenig opted for a motion for summary judgment in which he failed to provide any credible evidence rebutting the County's experienced witnesses. Koenig failed to provide any evidence from professionals that work with victims of crime. Instead, Koenig filed a declaration of another attorney that has worked on PRA cases. CP 212. Koenig has not provided any evidence that challenges the veracity and accuracy of the County's evidence.

3. The VIS should not be disclosed as nondisclosure is essential to effective law enforcement.

Obtaining a truthful VIS is important for the proper administration of justice as it is needed for sentencing decisions and recommendations.

CP 104-108. The following excerpts show the chilling effect disclosure of the VIS will have on effective law enforcement.

Elizabeth Timm Andersen, the victim of voyeurism in the related criminal matter, states:

I would not have provided a Victim Impact Statement if I had been told that the statement would be a public document to be given to any and all who asked for it. (CP 126.)

Catherine A. Carroll, legal director at the Washington Coalition of Sexual Assault Program since 2002, states:

I further believe that if Victim Impact Statements were subject to public disclosure many victims of sexually violent crimes would not participate in the criminal justice system in any meaningful way. (CP 117.)

David L. Johnson, Executive Director of the Washington Coalition of Crime Victim Advocates, states:

Guaranteeing victims some sense of privacy is absolutely essential in enlisting their cooperation with the system; cooperation which in turn serves the public good... Releasing those sealed records to just any member of the public would be a great disservice to crime victims, would tend to dissuade them from cooperating with law enforcement and the criminal justice system, and could put the victim's safety at risk... The criminal justice system would have a difficult time discovering the true impact to victims if victims knew that the written statement would be disclosed to anyone who made a public record request to the prosecutor's office... A crime victim would be hesitant to provide in writing a statement relating to how a crime has truly impacted his or her life if s/he knew that a member of the public could obtain the document from the prosecutor.... (CP 123-124.)

Kim H. Carroll, Victim Advocate for the Thurston County

Prosecuting Attorney's Office, states:

They have been violated enough by the act of the offender, but to know their raw emotions and most painful experiences as described in their own words could be released to the public upon a simple request, could lead the victim to decide not to make an impact statement. Such a result could seriously hinder investigations, prosecutions and hope of recovery... In my opinion, redacting certain information from the Victim Impact Statement would not rectify the problem, but would still make the victim vulnerable. A crime victim would be hesitant to provide in writing a statement relating to how a crime has truly impacted his or her life if s/he knew that a member of the public could obtain the document from the prosecutor, notwithstanding the fact that some information may be redacted. Gaining the trust and cooperation of a crime victim to assist the prosecution of a case is not always easy. Asking a crime victim to provide a Victim Impact Statement and letting them know it would be available to anyone that asks for it would create a situation where crime victims would not be willing to provide intimate details of the true impact to their lives. With the knowledge that a redaction of information could always be overturned by a court, I couldn't legitimately tell a crime victim what information would truly remain private. This has a tremendous negative impact on effective law enforcement. (CP 277-278.)

John Tunheim, Deputy Prosecuting Attorney, states:

For many years, this office has taken a "victim centered" approach to prosecution. As part of that philosophy, I believe that a victim's privacy must be closely guarded and only compromised when necessary in the interests of justice. To do otherwise, in my view, creates a chilling effect on the willingness of victims to report crime, provide information and cooperate with the prosecution. Therefore, the protection of victim privacy is critical to the effectiveness of law enforcement and the criminal justice

system. Furthermore, the legislature (RCW 7.69.010) has mandated that prosecuting attorneys vigorously protect the rights of crime victims which include the right to be treated with dignity, respect, courtesy and sensitivity. If I have knowledge that anything a victim may provide will be handed over to the public through a public disclosure request, this office will inform the victim of that possibility. It is my opinion that if a victim knows this, he or she will be unwilling to provide a true and accurate impact statement. . . . Letting them know we need a very personal statement and that it could be obtained by anyone who requests it will have a chilling effect on law enforcement by not being able to obtain accurate victim impact statements. . . . The victim impact statement and the sexual deviancy evaluation are unique and not similar to other documents such as police reports. Instead, the two documents are "voluntary" documents needed for sentencing. In both instances, they contain very private information that is necessary for effective law enforcement. Also, it is unlikely that accurate documents will be provided to a prosecuting attorney if the documents can be disclosed to anyone that asks for them. (CP 105-108.)

As the excerpts from professionals that deal with victims on a daily basis show, disclosing VISs to anyone who makes a request will have a chilling effect on the victim's willingness to participate in this essential law enforcement process. In fact, the victim herself stated, unequivocally, that she would *not* have provided a VIS if she had known the statement would be considered a public document and given to anyone who asked for it. CP 126. Proper sentencing is *essential* to effective law enforcement. As the sworn statements provide, the VIS would not be accurate if the victim knew anyone could obtain a copy of the document.

A prosecutor needs the VIS to make informed sentencing recommendations. Clearly, the VIS must not be disclosed.

Koenig's own arguments support an exemption of the VIS for purposes of maintaining effective law enforcement. Koenig argues:

Unlike the content of a police report, the victim has total control over the content of a VIS. The victim is not required to include any information that the victim does not wish to disclose...

Because the VIS is intended to be disclosed in open court, it should not contain factual details that would be highly offensive to a reasonable victim...

See Brief of Appellant to Court of Appeal, Pg. 19. What Koenig is stating is that victims should not disclose the true impacts of the crime. In other words, Koenig recognizes that impacts can be very private and argues that such impacts should be kept out of the hands of the PAO and the judge unless the victim is willing to allow the public to review it. This line of reasoning is outrageous and must be disregarded as it flies in the face of the purpose of ch. 7.69 RCW.

In recognition of the severe and detrimental impact of crime on victims, survivors of victims, and witnesses of crime and the civic and moral duty of victims, survivors of victims, and witnesses of crimes to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to grant to the victims of crime and the survivors of

such victims a significant role in the criminal justice system. The legislature further intends to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity; and that the rights extended in this chapter to victims, survivors of victims, and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.

RCW 7.69.010. Koenig's position, that a victim's true impacts should not be provided in the VIS if the impacts are too personal, does not honor or protect the victim as required under RCW 7.69.010; and does not protect the victim's right to present an accurate VIS under RCW 7.69.030(13).

Also, allowing the public to view a VIS does not protect the victim from the psychological harm caused by having personal details disclosed.

RCW 7.69.030(4). Obtaining a truthful VIS is important in assisting the PAO in making effective law enforcement decisions. Even Koenig recognizes that a victim will not include sensitive details in a VIS if the victim knew they would be disclosed to the public. *See* Brief of Appellant to Court of Appeals, pg. 19. This alone supports withholding the VIS for purposes of ensuring effective law enforcement.

Finally, Koenig continues his common theme that the VIS is available to the judge and is in the court file and, therefore, protecting it does not advance effective law enforcement. This leaves out several uncontested facts that are in the record for this case. First, the VIS was

sealed in this matter *prior to sentencing*. CP 153, CP 132. Second, many VISs are sealed. CP 123. In this case, the VIS was not available to just anyone through the court. While the parties have stipulated that the court's sealing of the records does not create an exemption for the PAO (CP 253), it does provide factual evidence that the VIS was not available to be viewed and that the judge found it sensitive enough to seal. All of the uncontested evidence establishes that nondisclosure of the VIS is essential to effective law enforcement and, therefore, is exempt under RCW 42.56.240(1).

4. Redaction of information contained in the VIS will not cure the privacy and effective law enforcement issues.

Koenig's assertion that one can just take what a victim of a sex crime has written in her own words and decide what is private and personal is not rational. First, one must consider that the Prosecuting Attorney's Office has to gain the victim's trust to obtain the statement. Then the Prosecuting Attorney's Office will inform the victim that any member of the public can obtain a copy of the VIS, but not to worry because it will attempt to redact what is private in nature (which may be looked at by a judge and over-turned or a settlement reached by the parties). While some words may not seem private to one person, a victim may feel those same words are extremely personal. It must be

remembered that the VIS is provided in the victim's own words for the court to consider. Furthermore, this is a unique, voluntary document being produced by a person that has been victimized. The following excerpts from the victim and professionals that work with victims make it clear that redaction for this unique document will not work.

Elizabeth Timm Andersen, the victim of voyeurism in the related criminal matter, states:

I understand that sometimes the identifying information will be redacted from documents before they are given to members of the public. I vigorously object to a copy of my statement being redacted and given to Mr. Koenig. I never intended for my personal and private thoughts to be made a public statement whether or not my name is attached to them. If my statement is determined to be part of the "public domain" and given out upon request, I will be victimized once again. (CP 126.)

David L. Johnson, Executive Director of the Washington Coalition of Crime Victim Advocates, states:

In my opinion, having a crime victim's name removed from the Victim Impact Statement would not rectify the problem. A crime victim would be hesitant to provide in writing a statement relating to how a crime has truly impacted his or her life if s/he knew that a member of the public could obtain the document from the prosecutor, notwithstanding the fact that his or her name has been redacted. (CP 123-124.)

Kim H. Carroll, Victim Advocate for the Thurston County Prosecuting Attorney's Office, states:

In my opinion, redacting certain information from the Victim Impact Statement would not rectify the problem, but would still make the victim vulnerable. A crime victim would be hesitant to provide in writing a statement relating to how a crime has truly impacted his or her life if s/he knew that a member of the public could obtain the document from the prosecutor, notwithstanding the fact that some information may be redacted. Gaining the trust and cooperation of a crime victim to assist the prosecution of a case is not always easy. Asking a crime victim to provide a Victim Impact Statement and letting them know it would be available to anyone that asks for it would create a situation where crime victims would not be willing to provide intimate details of the true impact to their lives. With the knowledge that a redaction of information could always be overturned by a court, I couldn't legitimately tell a crime victim what information would truly remain private. This has a tremendous negative impact on effective law enforcement. (CP 278.)

John Tunheim, Deputy Prosecuting Attorney, states:

I don't believe it would make a difference if some of the information, including the victim's name, is redacted. It is extremely difficult to establish trust with a victim. Letting them know we need a very personal statement and that it could be obtained by anyone who requests it will have a chilling effect on law enforcement by not being able to obtain accurate victim impact statements. (CP 106.)

It should be clear from the above excerpts that redaction is not the answer. When the County attempts to obtain a voluntary, very private document, telling a victim, "if someone makes a request, the document will have to be given out...but some of the information will be redacted, which may be overruled by a judge," does not provide a sense of security for a victim of a crime. From the evidence in the declarations, the County

will lose this effective sentencing tool if the VIS is disclosed, notwithstanding redaction. Additionally, redaction will not protect the victim's right to privacy. The legislature (RCW 7.69.010) has mandated that prosecuting attorneys and judges vigorously protect the rights of crime victims which include the right to be treated with dignity, respect, courtesy and sensitivity. CP 106; RCW 7.69.010(1). Thurston County, the victim, and those that work with victims believe one way of doing this is allowing the victim to be truthful when providing a VIS, a right provided under RCW 7.69.030(13). It must be remembered that prosecutors and judges must honor and protect a victim's right to provide an accurate VIS. RCW 7.69.010. As the evidence provides, redaction is not consistent with the legislature's directive.

Finally, as a VIS contains private information, redacting would leave nothing of public interest to disclose. Rejecting the same argument made by Koenig in this case, the Court in *Cowles* stated:

Cowles argues that the trial court should have considered disclosing the mitigation package subject to deleting any information that would have violated privacy interests, as suggested in RCW 42.17.260(1). But Yates' 91-page mitigation package consists almost exclusively of information and photos about his family. Deleting these materials from the mitigation package would leave little to disclose.

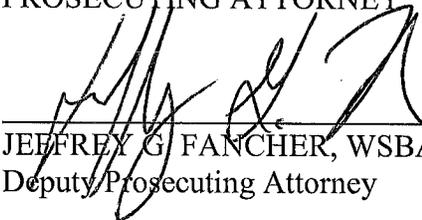
Cowles Publ'g at 510-11. Clearly, the same is true in this case and redaction should not be seen as an option.

II. CONCLUSION

This case involves specific facts regarding the victim impact statement in a criminal prosecution for a sex crime. The only facts in the record show that the Thurston County Prosecuting Attorney's Office used the VIS for purposes of investigating the appropriate sentencing recommendation. Furthermore, the only facts in the record show that the VIS was not available to anyone that requested a copy of the document as it was sealed prior to sentencing. Clearly, nondisclosure of the complete VIS in this case is essential to effective law enforcement and necessary for the protection of the victim's right to privacy. Accordingly, the Court of Appeals and trial court correctly held that the VIS was not subject to disclosure based on the facts of this case.

DATED this 20th day of September, 2010.

EDWARD G. HOLM
PROSECUTING ATTORNEY



JEFFREY G. FANCHER, WSBA #22550
Deputy Prosecuting Attorney

A copy of this document was properly addressed and mailed, postage prepaid, to the following individual(s) on September 20, 2010.

William John Crittenden, Attorney at Law
300 East Pine Street
Seattle, WA 98122-2029
Attorney for Appellant

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Olympia, Washington.

Date: 9/20/2010

Signature: 