

April 15, 2021

Via Electronic Mail

Dear Leslie and Brian:

We write to you regarding protecting our client's privacy interests and protecting her from further victimizing and/or traumatic events. Releasing records to the public with [REDACTED] personal identifying information ("PII") is not required and would unnecessarily subject her to further victimization, invade her privacy, and open her up for further harassment and retaliation. Thus, we request that no public information be released without redacting her PII. The grounds for this request include the following provisions of Idaho's Open Records Act:

- Pursuant to Idaho Code Section 74-105, investigatory records of a law enforcement agency¹ are exempt to the extent that such records would "constitute an unwarranted invasion of personal privacy." See I.C. § 74-124(1)(c). This provision applies to both active and inactive investigatory records. See, Id. at (1) & (3).
- Thus, pursuant to section 74-112, [REDACTED] PII should be redacted from any investigatory records to prevent an unwarranted invasion of personal privacy.
- Additionally, Idaho Code Section 74-109(3) exempts from disclosure, "personally identifying information relating to a private citizen contained in a writing to or from a member of the Idaho legislature." [REDACTED] clearly falls within the private citizen definition. Thus, her PII should be redacted from any legislative communications, including the March 17, 2021 letter to Rep. Sage Dixon.

Additionally, the House Rules provide for an executive session in order to prevent harm to an innocent third party. As such, we also request that [REDACTED] testimony be taken in executive session or in some other manner which protects her PII such that it achieves the purpose of the House Rules' recognition of the need to protect an innocent third party from harm. The grounds for this request including the following:

- House Rule 26 states that all "regular meetings of any standing, special or select committee of the House of Representatives shall be open to the public at all times." However, Rule 26.2 provides that there are extraordinary circumstances in which a House Committee may meet in executive session. Specifically, committees may be held in executive session when and to the extent necessary to "consider charges brought against or the discipline or dismissal of a member when public disclosure would harm an innocent third party." Additionally, executive session is also justifiable when they involve discussion of records exempt from public disclosure, which in this case includes [REDACTED] PII as laid out above. Our client, [REDACTED], is not a party to the underlying ethics complaint. She is by every sense of the term an innocent third party. Survivors of sexual assault are consistently subject to threats to the personal safety, privacy, and reputation when their names are made public through court records and public records

¹ This includes the Boise Police Department records and any records of the Attorney General.

request. We believe is it unnecessary and would cause our client – a third party to this matter – great harm if the Ethics Committee required her to present her testimony in an open meeting without taking appropriate measures to protect her PII.²

We are happy to present this request (with appropriate privacy safeguards) to the Chairman of the committee for consideration should that be necessary to formalize this request. We are happy to answer any questions you may have regarding this request and thank you in advance for freezing any disclosure of [REDACTED] PII until you and the committee have adequately considered the above.

Sincerely,

/s/ Annie Hightower

/s/ Erika Birch

² Alternatives to taking her testimony during an executive session could be allowing her to testify behind a shielding screen with voice unrecognition measures or via live video feed with access to the video limited to the members of the committee and those participating in the hearing, again with voice unrecognition measures.