



MONTANA

ASSOCIATION OF

CHIEFS OF POLICE

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DATE 3/31/04
#B 794

House Bill 794
March 30, 2005

Dear Committee Chair and Representatives,

I am writing to ask that you strongly oppose House Bill 794. This measure would criminalize the failure to release information that might later be deemed to be public information and therefore subject to release.

As the President of the Montana Association of Chiefs of Police I can assure you that the men and women of our profession see this as anti-victim legislation. As public servants and police officers we are often required to make decisions involving information pertinent to investigations or sensitive to victims of crime. Under HB794 we must always be right or we will face civil liability for releasing privileged victim information or we can expect we will be branded a criminal and forfeit our career.

As guardians of victim's rights we jealously guard information we believe could hinder active investigations or could jeopardize the safety of victims of crime. In doing so we often are required to balance the public's right to know against the need to protect that information. Currently when people seeking that information disagree with our judgment they seek relief from the court. The court ultimately decides whether the information should be released or not.

I cannot fathom that we would expect a police officer in a rape investigation to be required to weigh the need to protect the victim and the ongoing investigation against the risk of going to jail and losing their job. I am tired of proposals that seek to gut the ability of the criminal justice system to protect victims and witnesses. They deserve and demand your respect and reasonable protection.

Do not be fooled by those that seek to convince you that they should be the conscience of our communities. Those that feel they and they alone should decide what should be public information and what should not. Those that believe that nothing is sacred and that our right to know should come at the

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expense of justice. Don't allow those same pundits to claim that they know what is in our best interest and to persuade you that the courts should have no role.

We recognize that we share a constitutional responsibility as custodians of the public record to ensure that there is a balanced approach to weighing the public's right to know against the need to keep some information confidential.

In doing so the Montana Association of Chief of Police has, at our own expense and with the aid of the Montana Attorney Generals Office, hosted state wide training sessions for law enforcement officials on the release of public information. In addition the Montana Municipal Insurance Authority has provided model policy guidelines on a statewide basis to ensure consistent, legal and appropriate response to requests for public information.

We recognize our responsibility to be accurate in our interpretation of legal guidelines on the release of information while protecting the rights and dignity of those we serve. Please ensure that we don't make criminals out of those that must guard public records and who choose to serve their communities and the victims of crime in this way.

Sincerely,

Frank Garner
President
Montana Association of Chiefs of Police