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FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT  
JUNE 1, 2018  
STATE OF NORTH DAKOTA  
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## M E M O R A N D U M

TO: Penny Miller, Clerk of Supreme Court  
(supclerkofcourt@ndcourts.gov)

FROM: Wade G. Enget, (04165) Mountrail County State's Attorney

DATE: June 1, 2018

RE: Comment on Proposed N.D. Sup. Ct. Admin. R. 19

I would like to provide the Court with the following comments:

- 1) There is no reason to change the existing rules, as there are plenty opportunities within the existing statutes (Chapter 44-04 N.D.C.C.) for the public to access records;
- 2) The opportunity for a victim to protect and preserve their constitutional rights under Article I, Section 25 of the North Dakota Constitution must be jealously guarded. As a prosecutor, I know of several times in which a victim has been unable to assert their "Marsy's Law" rights when the original case is filed with the court (e.g. hospitalized, broken phone, no transportation, the list goes on and on). If the information is originally disclosed with the court, but then a victim, when able, asserts their rights, that information might be "long gone into cyber-space" and unretrievable; and,
- 3) In the past, there have been high profile cases in which the court has, later in the proceedings, sealed the records. If this proposed Rule is adopted, the court would potentially have to seal all information at the inception of the case, as there would be no real remedy available for the litigants if the court would seal the record later on in the proceedings.

I totally understand that we are trying to be transparent. However, just as the buzz word twenty (20) years ago was "networking", I believe that the court system has a duty to secure the information within the system. We must not allow "transparency" to overtake security of information and fairness to all litigants within the court system.