



ROCKY MOUNTAIN
victim law center

November 15, 2023

The Fuller Project
712 H St NE, PMB 37
Washington, DC 20002

Re: People v. Matthews, Denver County District Court Case #2023CR2763

To The Fuller Project,

Privacy for all crime victims is incredibly important, and particularly so for victims and survivors of sexual assault. Privacy is most important when a survivor chooses to report a sexual assault to law enforcement, and to engage in the criminal legal system. There are already extremely low reporting rates for violent crimes, these rates are devastatingly low for sexual assault crimes. According to the U.S. Department of Justice, Bureau of Justice Statistics, in 2021, only 21.5% of sexual assaults were reported to police. Alexandra Thompson and Susannah N. Tapp, Ph.D, *Criminal Victimization, 2021*. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, September 2022, NCJ 305101. For the very small percentage of survivors who choose to report the sexual assaults committed against them, ensuring their privacy must be paramount.

Colorado law specifically recognizes this privacy interest in statute and rule. C.R.S. 24-72-304(4)(a) requires “[t]he name and any other information that would identify any victim of sexual assault or of alleged sexual assault or attempted sexual assault or alleged attempted sexual assault shall be deleted from any criminal justice record prior to the release of such record to any individual or agency other than a criminal justice agency when such record bears the notation “SEXUAL ASSAULT” prescribed by this subsection (4). In appellate cases, “the following individuals must not be named in briefs or other appellate documents and must be identified by initials or appropriate general descriptive terms such as “victim” or “child”:(1) in criminal and civil cases, victims or alleged victims of sexual assault;” Colo. R. App. P.32(f).

While The Fuller Project has an important mission “dedicated to groundbreaking reporting that catalyzes positive change for women”, that should never be done in a way that causes harm.

<https://fullerproject.org/mission-and-vision/> Indeed, the Society of Professional Journalists (SPJ), in its Code of Ethics, specifically points to the importance of “balancing the public’s need for information against potential harm or discomfort” further noting, “[p]ursuit of the news is not a license for arrogance or undue intrusiveness.” In particular, SPJ highlights how important it is to “[s]how compassion for those who may be affected by news coverage. Use heightened sensitivity when dealing with juveniles, victims of sex crimes, and sources or subjects who are inexperienced or unable to give consent.” <https://www.spj.org/ethicscode.asp>

The recent actions of the Fuller Project in pursuing sources after communication has been declined, and in seeking court records that contain sexual assault victim names and identifying information, runs counter to these ethical standards, and directly undermines the willingness of sexual assault survivors to engage and participate in the criminal prosecution of their offender(s).

Whether or not there is any intention to publicly release the names and identifying information of victims is secondary to the impact such aggressive pursuit of that information has on the victims and survivors who have bravely chosen to report the crimes committed against them. The very fact that a journalist has access to their names and could share that information, choose to report it, or share documents that disclose that information is re-traumatizing and has a chilling effect on already abysmal sexual assault reporting rates. “[F]or some survivors simply participating in the [legal] process can be as painful and damaging as the crime itself.” Negar

Katirai, *Retraumatized in Court*, 62 ARIZ. L. REV. 81, 88 (2020). Those that do participate in the legal system are often only willing to do so because they have some guarantee of privacy, which, “[f]or most sexual assault victims’ privacy is like oxygen, it is a pervasive, consistent need at every step of recovery. Within the context of the legal system, if a victim is without privacy, all other remedies are moot.” Ilene Seidman & Susan Vickers, *The Second Wave: An Agenda for the Next Thirty Years of Rape Law Reform*, 38 Suffolk U. L. Rev. 467, 473.

While there may be public value in the goal to “seek truth and report it”, ethical journalists should also “avoid undercover or other surreptitious methods of gathering information...” <https://www.spj.org/ethicscode.asp> Requesting and accessing records that, under Colorado statute, should not be released, is surreptitious, and does not adhere to the ethical standards an organization committed to “catalyzing positive change for women” should be following. Neither does persistently requesting information after having already been told no such information will be provided.

The actions of The Fuller Project in regard to *People v. Matthews* have retraumatized some of the named victims in the case, and are now causing harm to the victims and survivors in that case. As such, we respectfully request 1) an assurance that victim and survivor names and identifying information that has been obtained will never be released by The Fuller Project unless a specific victim or survivor gives explicit permission to do so, 2) no additional requests for information be directed to our office or anyone who may be a client of our firm unless we contact you directly, and 3) no further attempts are made to access case documents during the pendency of this case including withdrawing any current requests for access.

It is our sincere hope that the reporting of The Fuller Project does make a difference in the lives of women, and all victims of crime, but doing so while actively causing harm to victims and

survivors is antithetical to your mission, and we hope you will refrain from causing further harm and proactively take steps to correct the harm that has been done.

Sincerely,

Kazi Houston, Esq.
Legal Director
Rocky Mountain Victim Law Center

Emily Tofte Nestaval, MSW
Executive Director
Rocky Mountain Victim Law Center