



February 1, 2020

Hon. Debra Stephens, Chief Justice  
Hon. Charles Johnson, Chair  
Members of the Washington Supreme Court  
Susan L. Carlson  
Clerk of the Supreme Court  
415 12<sup>th</sup> Ave., SW  
Olympia, WA 98501-0929

Re: ***Proposed GR 38, Civil Arrests***

Dear Chief Justice Stephens, Members of the State Supreme Court, and Madam Clerk,

As a longtime advocate for survivors of domestic and sexual violence who has worked in civil legal services, private immigration law practice, and in state and federal level policy work, I write in strong support of proposed GR 38. This proposal is intended to protect the ability of ***all*** people seeking legal remedies from Washington Courts without fear of federal immigration enforcement. Proposed GR 38 (with suggested amendments below) sends the message that Washington Courts are intended to be accessible to all members of our community, including immigrant survivors of domestic violence, sexual assault, stalking, and human trafficking.

In submitting these comments, I begin with the overarching premise, that victims should not have to fear choosing between living with abuse or facing deportation. Various studies have shown that lack of, or insecure immigration status is often leveraged by domestic violence perpetrators and traffickers as a tool of abuse and control.<sup>1</sup> Abusers often threaten their victims that they will have them deported if they seek help, and that they will never see their children again. When victims fear the possibility of deportation as a consequence for seeking help from the legal system, reaching out for assistance to address domestic or sexual violence is effectively removed as an option for safety, often with serious consequences. Immigrant survivors across Washington State are already aware that immigration agents are arresting people in and around courthouses., as this information has been shared rapidly through family members, co-workers, friends and media coverage. This practice has created deep fear in immigrant communities, discouraging survivors from accessing resources and safety.

According to a review of 147,902 intimate-partner homicides from 2003-2013 across 19 U.S. states, foreign-born victims were more likely than U.S. born victims to be associated with intimate partner violence related deaths. In addition, foreign-born women killed by their intimate

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<sup>1</sup> See, Edna Erez, & Nawal Ammar, *Violence Against Immigrant Women and Systemic Responses: An Exploratory Study*. National Network on Behalf of Battered Immigrant Women, National Institute of Justice Report grant # 98-WT-VX-0030 (2003); Mary Ann Dutton et al., *Characteristics of Help Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. ON POVERTY L. & POL'Y 245, 55 (2000).

partners were more likely than U.S. born women to be married, young, and killed by a young partner who strangled, suffocated, or stabbed them.<sup>2</sup> In addition, the Washington State Domestic Violence Fatality Review has found that Hispanic and Latina and Asian and Pacific Islander women, along with other women from communities of color in Washington State, are at 2.5 to 3.5 times greater risk for domestic violence homicide than white, non-Hispanic women, in Washington.<sup>3</sup> Experts have identified one of the explanations for these disparities to be that the legal vulnerability relating to immigration status compromises safety planning for immigrant domestic violence victims.

These findings are consistent with the results of a recent survey that the Asian Pacific Institute on Gender-Based Violence (API-GBV), along with six partner national domestic violence and sexual assault survivor advocacy organizations, conducted of victim advocates and attorneys across the country. The survey was sent nationwide during the weeks of April 15 – May 3, 2019, asking victim advocates about what they were experiencing. In total, 575 advocates and attorneys from 42 states, one U.S. territory and the District of Columbia completed the survey, including advocates and attorneys from seven counties in Washington. The following are results from the survey<sup>4</sup>:

**Is your agency observing a change in the number of immigration-related questions from survivors?**

Nationally: Increase: 59%  
Washington: Increase: 64%

**Are immigrant survivors sharing with your agency that they have concerns about contacting police? If so, what are their concerns?**

Nationally: Yes: 76%  
Washington: 91%

**Are immigrant survivors reporting that they have concerns about going to court for a matter related to the abuser/offender.**

Nationally: 76%  
Washington: 91%

**Advocates reporting they have worked with immigrant survivors who dropped civil or criminal cases because they were fearful to continue with their cases.**

Nationally: 52%  
Washington: 46%

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<sup>2</sup> Bushra Sabri, Jacquelyn C. Campbell, & Jill T. Messing, Intimate Partner Homicides in the United States, 2003-2013: A Comparison of Immigrants and Nonimmigrant Victims. *Journal of Interpersonal Violence*, 1-23 (2018).

<sup>3</sup>The reports of the Washington State Fatality Review can be found at: <https://wscadv.org/resources/washington-state-fatality-review-reports/> Findings relating to the disparity in homicide rates can be found in the 2008 and 2010 reports.

<sup>4</sup> A summary of the survey results can be found at <https://www.api-gbv.org/resources/may-2019-advocate-legal-services-findings-immigrant-survivors-fear-reporting-violence/>

These recent findings are consistent with research findings by the National Domestic Violence Hotline and the National Latin@ Network; Casa de Esperanza in surveying callers seeking domestic violence assistance. The survey found that 45% of the foreign-born callers to the National Hotline expressed fear of calling and/or seeking help from the police or courts, with immigration concerns being a significant basis for that fear.<sup>5</sup>

I urge the Supreme Court to adopt proposed GR 38 (as amended below) to help ameliorate the significant fear that immigrant survivors are expressing about accessing services available for them. Adopting GR 38 will support increasing access to justice, due process, and equal protection of the law by reducing the ability of abusers and traffickers to disenfranchise immigrant survivors from participating in both the civil and criminal legal process, and by helping effectuate Washington public policy addressing domestic violence and sexual assault.

Washington State has evinced “a clear public policy to prevent domestic violence—a policy the legislature has sought to further by taking clear, concrete actions to encourage domestic violence victims to end abuse, leave their abusers, protect their children, and cooperate with law enforcement and prosecution efforts to hold the abuser accountable.” *Danny v. Laidlaw Transit Services*, 165 Wn. 2d 200 (2008). As part of the legal framework intended to address domestic violence and sexual assault, in 2018, the legislature passed the Safety and Access for Immigrant Victims Act, RCW 7.98.900, recognizing that “the protections available to immigrants under the law are designed to strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of trafficking in persons, domestic violence, sexual assault, and other crimes while offering protections to such victims.” RCW 7.98.005.

### **Suggested Amendments to Proposed Rule 38**

Since the GR 9 petition was filed in October 2019, API-GBV, along with other members of the statewide coalition supporting Proposed GR 38 have continued to engage with community partners. Based on feedback on the initial proposal, our coalition suggests the below amendments to better improve its implementation (additions underlined).

1. No person shall be subject to civil arrest without a judicial arrest warrant or judicial order for arrest while the person is inside a court of law of this state in connection with a judicial proceeding or other business with the court.

2. No person shall be subject to civil arrest without a judicial arrest warrant or judicial order for arrest while the traveling to a court of law of this state for the purpose of participating in any judicial proceeding, accessing services or conducting other business with the court, or while traveling to return home or to employment after participating in any judicial proceeding, accessing services or conducting business with the court. Participating in a judicial proceeding includes, but is not limited to, participating as a party, witness, interpreter, attorney or lay advocate. Business with the court and accessing court services includes, but is not limited to, doing business with, responding to, or seeking information, licensing, certification, notarization, or other services, from the office of the court clerk, financial/collections clerk, judicial

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<sup>5</sup> [http://www.nationallatinonetwork.org/images/files/HotlineReport\\_2\\_2015\\_Final.pdf](http://www.nationallatinonetwork.org/images/files/HotlineReport_2_2015_Final.pdf);

administrator, courthouse facilitator, family law facilitator, court interpreter, and other court and clerk employees.

3. Washington courts may issue writs or other court orders necessary to enforce this court rule. Unless otherwise ordered, the civil arrest prohibition extends to within one mile of a court of law. In an individual case, the court may issue a writ or other order setting forth conditions to address circumstances specific to an individual or other relevant entity.

For purposes of this rule:

A. “Court of law” means any building or space occupied or used by a court of this state and adjacent property, including but not limited to adjacent sidewalks, all parking areas, grassy areas, plazas, court-related offices, commercial spaces within buildings or spaces occupied or used by a court of this state, and entrances to and exits from said buildings or spaces.

B. “Court Order” and “Judicial Warrant” include only those warrants and orders signed by a judge or magistrate authorized under Article III of the United States Constitution or Article IV of the Washington Constitution or otherwise authorized under the Revised Code of Washington. Such warrants and orders do not include civil immigration warrants or other administrative orders, warrants or subpoenas that are not signed by a judge or magistrate as defined in this section. Civil immigration warrant means any warrant for a violation of federal civil immigration law issued by a federal immigration authority and includes, but is not limited to, administrative warrants issued on forms I-200 or I-203, or their successors, and civil immigration warrants entered in the national crime information center database.

C. “Subject To Civil Arrest” includes, but is not limited to, stopping, detaining, holding, questioning, interrogating, arresting or delaying individuals by state or federal law enforcement officials or agents acting in their official capacity.

I hope this information has been useful and will be carefully considered by the Court. If you have any questions, please contact me by e-mail at [gjuang@api-gbv.org](mailto:gjuang@api-gbv.org). Thank you for your consideration of these comments.

Sincerely,



GRACE HUANG

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Tracy, Mary](#)  
**Subject:** FW: API-GBV comments in support of Proposed GR 38  
**Date:** Monday, February 3, 2020 8:10:33 AM  
**Attachments:** [image001.png](#)  
[APIGBV GR38 Comments02032020.pdf](#)

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**From:** Grace Huang [mailto:[ghuang@api-gbv.org](mailto:ghuang@api-gbv.org)]  
**Sent:** Sunday, February 2, 2020 12:03 AM  
**To:** OFFICE RECEPTIONIST, CLERK <[SUPREME@COURTS.WA.GOV](mailto:SUPREME@COURTS.WA.GOV)>  
**Subject:** API-GBV comments in support of Proposed GR 38

Attached please find my comments in support of Proposed GR 38. Thank you.



Grace Huang  
Policy Director  
Pronouns: She/Her  
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