



February 1, 2020

Hon. Debra Stephens, Chief Justice  
Hon. Charles Johnson, Chair  
Washington State Supreme Court Rules Committee  
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 Comment 4 to RPC 4.4, Respect for the Rights of a Third Person***

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 amending comment 4 to RPC 4.4. This proposal is designed to clarify the rights and duties of attorneys in maintaining certain personal information. Proposed Comment 4 to RPC 4.4 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 of domestic and sexual violence, human trafficking, and stalking 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.

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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).

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 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 my organization, 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%

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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/>

**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%

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 anonymous 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 comment 4 to RPC 4.4 in order to help ameliorate the significant fear that immigrant survivors are expressing about accessing services available for them. Amending comment 4 in the Rules of Professional Conduct 4.4 to include criminal matters will reduce the ability of abusers and traffickers, through their attorneys, to leverage immigration authorities or the threat of deportation to intimidate witnesses and victims. Addressing the lack of express language in Comment 4, making it clear that restrictions in sharing information with immigration officials apply in criminal proceedings as well as civil proceedings, helps reduce the likelihood that either criminal defense attorneys or prosecutors will be able to use the immigration enforcement system to impact the outcome of their cases. This will help reduce the ability of abusers and traffickers to disenfranchise immigrant survivors from participating in both the civil and criminal legal process, and to effectuate Washington public policy preventing domestic violence.

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

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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);

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Tracy, Mary](#)  
**Subject:** FW: API-GBV comments in support of proposed comment 4 to WRPC 4.4  
**Date:** Monday, February 3, 2020 8:11:00 AM  
**Attachments:** [image001.png](#)  
[APIGBV WRPC4.4 Comments02032020.pdf](#)

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**From:** Grace Huang [mailto:[ghuang@api-gbv.org](mailto:ghuang@api-gbv.org)]  
**Sent:** Sunday, February 2, 2020 12:04 AM  
**To:** OFFICE RECEPTIONIST, CLERK <[SUPREME@COURTS.WA.GOV](mailto:SUPREME@COURTS.WA.GOV)>  
**Subject:** API-GBV comments in support of proposed comment 4 to WRPC 4.4

Attached please find my comments in support of proposed comment 4 to WRPC 4.4. Thank you.



Grace Huang  
Policy Director  
Pronouns: She/Her  
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