

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Tracy, Mary](#)
Subject: FW: Comments on proposed GR 38 and proposed amendments to RPC 4.4
Date: Monday, February 3, 2020 8:09:15 AM

From: Kelly Starr [mailto:kelly@wscadv.org]
Sent: Saturday, February 1, 2020 3:00 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments on proposed GR 38 and proposed amendments to RPC 4.4

February 1, 2020

Susan L. Carlson
Clerk of the Supreme Court
Washington Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

Re: Comments on proposed GR 38 and proposed amendments to RPC 4.4

Dear Madam Clerk:

On behalf of the Washington State Coalition Against Domestic Violence (WSCADV), I write to submit these comments in strong support of proposed General Rule 38, as well as proposed amendments to Rule of Professional Conduct 4.4.

By way of background, WSCADV is the leading voice to end domestic violence in Washington State. We improve how communities respond to domestic violence and are working to create a world where all people can live and love freely without fear. Founded in 1990 by survivors and their allies, WSCADV is a non-profit 501(c)3 network of more than 70 domestic violence programs. Our member programs work tirelessly across the state to help survivors towards safety and freedom. We have a strong interest in these proposed rules because WSCADV and our member organizations work closely with immigrants who are survivors of domestic violence.

[WSCADV supports proposed GR 38](#)

Proposed GR 38 would protect people from being subjected to warrantless civil arrests while inside a courthouse or while traveling to or from court. This proposed rule is urgently needed for domestic violence survivors who are immigrants.

Domestic violence survivors need to access the courts to seek protection orders, to serve as witnesses in court proceedings, to obtain divorces and parenting plans, to seek child support, and for countless other reasons. But from our work and the work of our member programs, we know that immigrant survivors are increasingly unwilling to access the courts and the legal system due to fears of facing arrest by immigration officials as a result.

These fears were reflected in a May 2019 survey of nearly six hundred advocates and attorneys from across the United States.^[1] Key findings from this survey include:

- 75 percent of advocates reported that immigrant survivors have concerns about going to court for a matter related to their abusers.
- 52 percent of advocates had worked with immigrant survivors who had dropped civil or criminal cases because they were fearful to continue their cases.
- 76 percent of advocates reported that immigrant survivors have concerns about contacting police.

As one advocate noted, “[t]he biggest concern women clients have is being separated from their children; they [would] rather withdraw their court cases out of fear of being arrested and then placed in removal proceedings.”

When survivors of domestic violence fear accessing courts or being involved in the legal system, perpetrators are able to target victims with impunity. These actions make our communities less safe. As a result, we strongly urge the adoption of proposed GR 38.

[WSCADV supports proposed amendments to RPC 4.4](#)

This proposal would make technical changes to the comments for RPC 4.4 in order to help ensure that lawyers – including prosecutors – do not improperly disclose a person’s immigration status. For many of the same reasons discussed above, these technical changes are needed to help ensure that immigrants, including immigrants who are survivors of domestic violence, are able to access courts and the legal system.

[1] Asian-Pacific Institute on Gender Based Violence et al., *Immigrant Survivors Fear Reporting Violence* (May 2019), available at: <https://static1.squarespace.com/static/5b9f1d48da02bc44473c36f1/t/5d02ea986a2e6d0001537f31/1560472217547/May+2019+Advocate+Survey+Key+Findings.pdf>

Thank you for your consideration of our comments.

Sincerely,

Kelly Starr

Kelly Starr, Managing Director of Public Affairs
Washington State Coalition Against Domestic Violence

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[4] Asian-Pacific Institute on Gender Based Violence et al., *Immigrant Survivors Fear Reporting Violence* (May 2019), available at:
<https://static1.squarespace.com/static/5b9f1d48da02bc44473c36f1/v/5d02ea986a2e6d0001537f31/1560472217547/May+2019+Advocate+Survey+Key+Findings.pdf>