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SUPREME COURT OF THE STATE OF WASHINGTON

**SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL,
LEONDIS BERRY, and THEODORE ROOSEVELT RHONE,**
Petitioners,

v

**JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of
Corrections,**
Respondents.

BRIEF OF *AMICI CURIAE* SEXUAL VIOLENCE LAW CENTER,
LEGAL VOICE, KCSARC, OPS, ANDERSON, YORK & STRATTON,
PC, LIFEWIRE, NORTHWEST JUSTICE PROJECT and NCVLI

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I. INTRODUCTION

Past the court security on the Third Avenue entrance of the King County Courthouse in Seattle is a plaque, in remembrance of Susana Remerata Blackwell, her expected child, and her friends Phoebe Dizon and Veronica Laureta. They were tragically gunned down by Susana's abusive husband as she sought a domestic violence protection order against him.¹ He currently serves life without the possibility of parole in Monroe Correctional Facility, is over 50 years old and falls in one of the groups identified by Petitioners for early release due to vulnerability to COVID-19.²

For almost 20 years, April has been designated as Sexual Assault Awareness month.³ Yet domestic violence, sexual assault and child sexual abuse cases are already increasing drastically as victims are socially

¹Amici will note that to preserve victim confidentiality and safety, most victim names are not provided in this brief, unless victim provided a statement to be included in Appendices or information was publicly available. *Man Held in Fatal Shooting of Wife, Her Friend in Court*, March 3, 1995, <https://www.latimes.com/archives/la-xpm-1995-03-03-mn-38298-story.html>, last accessed April 16, 2020

² *Wash. Courthouse killer gets life*, June 18, 1996 <https://www.upi.com/Archives/1996/06/18/Wash-courthouse-killer-gets-life/7366835070400/>, last accessed April 16, 2020

³ *History of Sexual Assault Awareness Month*, National Sexual Violence Resource Center, available at www.nsvrc.org.

isolated and unable to access safe community resources.⁴ Seattle Police Department alone experienced a 21% increase in domestic violence calls this past month.⁵ We are in unprecedented times, dealing with an ongoing epidemic of violence within the COVID-19 pandemic.

Gender-based violence has increased drastically in the past several weeks and “cuts across all racial, class, and cultural lines.”⁶ Meanwhile as the pandemic spreads and wreaks havoc in communities both locally and globally, populations in prisons, immigrant detention centers and state mental institutions are particularly vulnerable to the spread of the virus where hygiene practices are limited and social distancing is near impossible. Release of incarcerated individuals is an acutely problematic

⁴ See Melissa Jeltsen, *As Nation Stays Home, Early Indicators Suggest Rise In Domestic Violence Killings*, April 12, 2020 https://www.huffpost.com/entry/increase-domestic-violence-killings-coronavirus-stay-at-home_n_5e907808c5b63e73d7e38fe7, last accessed April 16, 2020, last accessed April 16, 2020. See also Dr. Nina Agarwal, *The Coronavirus Could Cause a Child Abuse Epidemic*, April 7, 2020, <https://www.nytimes.com/2020/04/07/opinion/coronavirus-child-abuse.html>, last accessed April 16, 2020; Sara Green, *Police, prosecutors and victim advocates worry coronavirus stay-at-home order will cause spike in domestic violence*, March 30, 2020, <https://www.seattletimes.com/seattle-news/crime/police-prosecutors-and-victim-advocates-worry-coronavirus-stay-at-home-order-will-cause-spike-in-domestic-violence/>, last accessed April 16, 2020

⁵ Amy Radil, *During isolation, Seattle police see increased domestic violence reports*, April 5, 2020, <https://www.kuow.org/stories/during-isolation-spd-reports-uptick-in-do>, last accessed April 16, 2020

⁶ Elizabeth Marsh Das et. al., *Understanding Children, Immigration, and Family Violence: A National Examination of the Issues* 3 (2005); Michael Runner et al., *Intimate Partner Violence in Immigrant and Refugee Communities: Challenges, Promising Practices, and Recommendations* 10 (2009).

approach as it requires balancing public health concerns related to COVID-19 against victim and public safety.

Amici recognize the importance of reducing the number of individuals incarcerated, for the health of both the inmates and the DOC staff. As direct service providers to victims of gender-based violence, Amici are also gravely concerned by the devastating impact any early release that does not center the safety and health needs of victims will have on the victims they serve. It is irresponsible to request release of incarcerated individuals without considering their criminal history, the underlying crime for which they are currently incarcerated, or assessment for risk. Amici urge the Court to center, in addition to the considerations outlined in the petition, victim impact and victims' legal rights. Specifically, this Court should hold that release of incarcerated individuals require timely prior victim notification and meaningful victim input.

II. IDENTITY AND INTEREST OF AMICI

The interests and identities of amici are set forth in the Motion for Leave to File Brief of Amici Curiae, filed herewith.

III. STATEMENT OF THE CASE

Amici believe the statements of the case set forth by Petitioners and Respondents, while generally thorough, do not sufficiently consider and

address the rights and interests of crime victims, for the reasons discussed below.

IV. ARGUMENT

The impact of interpersonal crimes is devastating for victims. It is often at great risk to reputation and safety that victims come forward to hold their abuser accountable through the criminal justice system. The trauma and fear a victim suffers does not end at conviction and sentencing. Victims of interpersonal crimes should not bear the additional burden of fearing that their perpetrator will be released early, especially at a time where COVID-19 makes it nearly impossible to relocate quickly, find new employment, access mental health and advocacy services, and in some situations, have law enforcement respond quickly, if at all.

A. The Court Should Uphold Victims' Rights

During this time when courts must balance individual rights with the public health and government closure mandates, courts cannot forget the constitutional rights and interests of victims. As of yesterday, the Governor has purported to waive statutory notification requirements to victims when certain inmates are released from DOC custody.⁷ In fact,

⁷*Reducing Prison Populations Proclamation 20-50*, Office of the Governor at 3 (April 15, 2020) (waiving statutory notification requirement provisions, for individuals whose releases otherwise would have required the Department of Corrections to provide community or victim/witness notifications; reasonable efforts should be made 48 hours in advance of release).

where both Petitioners and Respondent have relegated victim fears and safety needs to a footnote or treated it as an afterthought, the Court alone now carries the weight of ensuring victims are protected.⁸

Notably, beyond the statutory notice requirements are victims' constitutional rights. Article I, Section 35 of the Washington State Constitution (the Victims' Rights Amendment) recognizes victims' constitutional right to make a statement at any proceeding where the defendant's release is considered, including post-sentencing. This Court has even gone so far as to say, "The language of [Article I, Section 35] is without exception."⁹ When evaluating this constitutional provision when considering victim impact statements in homicide cases, this Court further noted that, "The mandate of the people of the State of Washington, as expressed through the constitutional amendment processes culminating in adoption of the victim's rights amendment to our state constitution, is to give to victims of crime the right to participate in the judicial process..."¹⁰ Yet, if Petitioners' requested relief is granted, crime victims and survivors will be denied their constitutionally guaranteed right of making a statement whenever release is considered. These constitutional rights have

⁸ Petition for Writ of Mandamus at PSD at 68; Petitioner's Brief in Support of Writ at PSD at 26, footnote 99.

⁹ *State v. Gentry*, 125 Wn.2d 570, 628, 888 P.2d 1105 (1995).

¹⁰ *Id.* at 629.

not been suspended by executive order. A constitutional right must be interpreted through a due process lens that requires notice sufficient to create an opportunity to make the right meaningful. Thus, reasonable and timely prior notice is still constitutionally required in this state.

The Washington Legislature recognized the critical importance that all victims and witnesses in specific types of crimes were entitled to be notified prior to any release of the incarcerated individual to the community, and enacted statutory rights to such notice.¹¹ In cases involving a violent crime, victims are legally entitled to 30 days' advance notification prior to the incarcerated individual's release, though as of yesterday the Governor has completely waived this notice requirement.¹² However, the constitutional rights are intact. Deprivation of these rights will not be excused by administrative inconvenience and logistical difficulty.¹³ Protocols for release without victim input and consideration of victim rights can and in some cases will cause significant harm to victims.¹⁴

¹¹ See RCW 72.09.712; RCW 72.09.713; and RCW 72.09.714. (providing for victims and witnesses in violent crimes or drug offenses the ability to enroll for advance notification of an incarcerated individual's release).

¹² *Reducing Prison Populations Proclamation 20-50*, Office of the Governor (April 15, 2020) (completely waiving statutory notice requirements for victims when an inmate is released).

¹³ *Bell v. Wolfish*, 441 U.S. 520, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979) (finding that administrative inconvenience can never excuse the deprivation of constitutional rights).

¹⁴ A violation of a victim's rights will not only harm the individual victim, it will also create an adverse effect on our court systems. Victims whose rights have been violated

B. Gender-Based Violent Crimes Are Inherently Demanding and Traumatizing for Victims to Come Forward

It is significant not only for a victim, but also for the community when a victim comes forward and is able to hold their perpetrator accountable through the criminal justice system. For gender-based violence crimes, the “biggest risk factor . . . is being a woman.”¹⁵ About one in three women in the United States will experience sexual violence involving physical violence in their lifetime.¹⁶ Additionally, the Center for Disease Control reports that 1 in 8 girls and 1 in 4 boys who identify as rape victims were sexually abused before they turned 10 years old.¹⁷

There are many systemic, social, and psychological barriers that prevent victims of sexual violence from reporting their abusers.¹⁸ The legal system responses to sexual assault complaints may discourage

will have no choice but to seek court intervention for redress, increasing court congestion as well as creating greater health risks in the community.

¹⁵ Elizabeth Marsh Das et. al., *Understanding Children, Immigration, and Family Violence: A National Examination of the Issues* 3 (2005); Michael Runner et al., *Intimate Partner Violence in Immigrant and Refugee Communities: Challenges, Promising Practices, and Recommendations* 10 (2009). *Supra* at 4

¹⁶ Center for Disease Control Features, *Preventing Sexual Violence* (2019), available at <https://www.cdc.gov/features/sexualviolence/index.html>.

¹⁷ Espelage, D L. et al., *Bullying perpetration and subsequent sexual violence perpetration among middle school students*, *Journal of Adolescent Health*, 50(1) 61 (2012). Due to the underreporting of sexual assault and child sexual abuse these numbers are believed to be higher than reported statistics.

¹⁸ *See Rape in America: A Report to the Nation*, Nat'l Victim Ctr. and Crime Victims Research and Treatment Ctr., 4 (1992) (sixty-nine percent of rape victims are somewhat or extremely concerned about “[p]eople thinking it was her fault or that she was responsible”).

victims from participating in the criminal justice system.¹⁹ Critics of the criminal justice system's treatment of rape have long noted that rape survivors are often discouraged from using the criminal justice system.²⁰ Victims face bias and institutional barriers at every level of the criminal justice system, including victim-blaming prosecutors and judges.²¹ Victims rightfully fear that they will be disbelieved or blamed.²² This is particularly true for victims of color, as one recalled observing Dr. Christine Blasey Ford's testimony during the hearings for Justice Kavanaugh's appointment:

We saw an educated white woman with financial, legal and familial support testify about being sexually assaulted, and then face the emotionally exhausting experience of being cross-examined for hours and disbelieved by many Senators. We got the message: If they won't listen to her, it will be even worse for us.²³

¹⁹ See M. Anderson, *New Voices on the New Federalism: Women Do Not Report the Violence They Suffer: Violence Against Women and the State Action Doctrine*, 46 VILL. L. REV. 907, 928-31 (2001).

²⁰ Held, M. *A Constitutional Remedy for Sexual Assault Survivors*, 16 GEO. J. GENDER & L. 445 (2015).

²¹ *Id.*

²² See *Rape in America* at 4

²³ Sung Yeon Choimorrow, et. al, *This is Defining Moment for Women of Color Who Survived Sexual Violence*, Oct 4, 2018, <https://www.colorlines.com/articles/defining-moment-women-color-who-survived-sexual-violence-op-ed>, last accessed April 16, 2020.

Black, brown and indigenous women, girls, and non-binary people are seldom responded to as victims. Instead, they are categorized as deserving of harm or unable to be harmed.²⁴

In Oklahoma City, for example, police officer Daniel Holtzclaw was convicted in 2015 of multiple counts of rape and sexual assault, crimes he had committed for years against black women in low-income communities, specifically targeting them because they were less likely to be believed.²⁵ Victims of color whose perpetrators are black or brown men often consider the perpetrator's vulnerability to state violence, creating a barrier to reporting perpetrators in their own community.²⁶ Reporting abuse can become an insurmountable barrier for many immigrant victims as well, particularly where abusers "use immigration status to threaten deportation and also to warn that the abuser could be deported if the violence were disclosed."²⁷

²⁴ See Human Rights Project, *The Sexual Abuse to Prison Pipeline: A Girl's Story*, Georgetown Law Ctr. (2019). See also Cara Kelly, *Analysis: Cyntoia Brown, R. Kelly and the Refusal to Recognize Black and Brown Female Victims*, Jan 13, 2019, <https://www.usatoday.com/story/news/investigations/2019/01/11/cyntoia-brown-r-kelly-and-refusal-recognize-black-female-victims/2542845002/>, last accessed April 16, 2020.

²⁵ Michael Martinez, *Former Oklahoma City police officer Daniel Holtzclaw found guilty of rape*, December 10, 2015, <https://www.cnn.com/2015/12/10/us/oklahoma-daniel-holtzclaw-trial/index.html> last accessed April 16, 2020.

²⁶ Shondrah Tarrezz Nash, *Through Black Eyes: African American Women's Construction of Their Experiences With Intimate Male Partner Violence*, VIOLENCE AGAINST WOMEN, 11 (2005). Victim are often further dismissed if the victim engages in sex work, was in the foster system, or alcohol or intoxicants were involved.

²⁷ See *supra*, at 12.

One of the clients of Amici Sexual Violence Law Center is a family where there has been intergenerational sexual abuse and physical violence, along with coercive control by the perpetrator based on the family's mixed immigration status. He is at Stafford Correctional Center, is over 50 years of age and has several health issues, including possible respiratory problems. Though the charges were brought based on disclosure of one granddaughter and a cousin, the incarceration of the abuser has allowed the other victims in the family—grandmother, mother, another daughter and some cousins—to feel safe at last. The fear that this individual may be released due to COVID-19 has made two victims suicidal, as it has brought back fears and traumas they were not prepared to handle. And with many counseling services closed or not culturally responsive to this family's needs, the family is doing the best they can to support each other while isolated during the shelter in place order.

When a victim comes forward to report and continues to engage in the criminal justice system to hold their abuser accountable, these convictions and sentences must be taken seriously.

C. Victim Safety Requires A Multifaceted Approach, Now Drastically Reduced by COVID-19

Two or three days is not sufficient notice for a victim to start engaging in safety planning.²⁸ Addressing victim safety is not as simple as connecting to law enforcement or a local advocacy group. A multitude of complex needs are intertwined to ensure a victim's safety, including but not limited to: social services; healthcare; counseling services; Medicaid; food assistance; safety in the home, workplace, and school; and having an

²⁸ Petition for Writ of Mandamus at PSD at 68; Petitioner's Brief in Support of Writ at PSD at 26, fn 99; *see also Reducing Prison Populations Proclamation 20-50*, Office of the Governor (April 15, 2020).

infrastructure of support to ensure that the victim has safety measures in place to protect from further danger and harm.

As an example, in a single day, domestic violence programs across the United States received but were unable to meet nearly 7,500 requests for housing services.²⁹ Service providers report that approximately 80% of domestic violence victims and 55% of sexual assault victims use the SNAP program.³⁰ Applications are increasing and slow to process as victims look to move away, leave their jobs or are being terminated due to COVID-19.³¹ Many suffer serious health issues as a result of abuse, including acute injuries, chronic pain, and traumatic brain injuries, and are at an increased risk for suicide, depression, anxiety, posttraumatic stress disorder, and substance abuse.³² Health care access is crucial because of the importance of treating health consequences of abuse. However, currently healthcare providers are diverting and delaying services if not

²⁹ National Network to End Domestic Violence, *Domestic Violence Counts: 12th Annual Census Report* (2018), <https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/>, last accessed April 16, 2020

³⁰ S. Goodman, National Resource Center on Domestic Violence, *The Difference Between Surviving and Not Surviving: Public Benefits Programs and Domestic and Sexual Violence Victims' Economic Security*, January 2018, <https://vawnet.org/material/difference-between-surviving-and-not-surviving-public-benefits-programs-and-domestic-and>, last accessed April 16, 2020

³¹ Precluding access to housing and food assistance will prevent many victims from escaping or fleeing, and leave some with no choice but to remain exposed to danger.

³² See M.J. Breiding et. al., *Chronic Disease and Health Risk Behaviors Associated with Intimate Partner Violence-18 U.S. States/Territories*, 18 ANNALS OF EPIDEMIOLOGY 538-44 (2005).

COVID-19 related. Furthermore, as COVID-19 spreads among our communities, many victims are having to self-quarantine or have already been infected and are medically and physically incapable of taking the initial steps of safety planning.

Experiencing gender-based violence increases the needs of a victim significantly more than the average person. For example, where most low-income individuals in Washington will experience on average 9.3 legal issues, a victim of domestic violence or sexual assault experience an average of 19.7 legal issues, twice the average experienced by the general population.³³

This is more true now than ever, highlighted by this Court's former Chief Justice Mary Fairhurst, the increasing needs have already overwhelmed our civil legal aid systems, including victims of gender-based violence.³⁴ *Amici* Sexual Violence Law Center has been contacted by many terrified victims who have an array of needs³⁵:

- A victim learned of Governor Inslee's release of 950 nonviolent incarcerated individuals and the possibility of more releases through the news. Her terror is palpable as her ex had physically abused her

³³ Office of Civil Legal Aid, *2014 Washington Civil Legal Needs Study* at 13 (October 2015).

³⁴ Mary Fairhurst & Fred Rivera, *Corona Virus Will Overwhelm Our Civil Legal Aid System*, April 14, 2020, available at <https://www.seattletimes.com/opinion/coronavirus-will-overwhelm-our-civil-legal-aid-system/>, last accessed April 16, 2020

³⁵ Per Article I, Sect 35 of state Constitution, *Amici* have included in the Appendix, additional statements provided by victims who have learned of this case and seek to provide input to the Court.

over several years, finally attacking her and a friend with a machete in 2017. He was already over 50 years old at the time of the attack and would be eligible for release under relief requested by Petitioners. He currently incarcerated at Clallam Bay Corrections Center. This victim has lost one arm and sight in one eye due to the attack, is over 50 years of age and has health complications due to the attack. Yet the fear of this inmate's release prompted her to start packing her trailer because she sees moving out of state as her only option of staying alive even if she loses health coverage.³⁶

- A victim of domestic violence and attempted murder terrified that her ex-husband and abuser, a former King County Sheriff's deputy currently incarcerated at Monroe Corrections, would be released because he is over 50 years old and has serious health complications related to diabetes. He had tried to kill her, their children and her sister as punishment for her seeking a divorce. A first-time grandmother, she does not have the means to move and has continued to live in their old home, close to her family and support system. This victim knows she will be killed if her ex is released from prison and believes the only chance she has of survival is to leave the country, which she does not have the means or physical ability to do.³⁷
- Victims (mother and child) of rape and child sexual abuse seeking to change their name as their abuser at Stafford is within 18 months of being released. However, the local district court will not process the name change as it is not considered "emergent." Additionally, the mother in this case had been saving up to hire a family law attorney but due to layoffs, is now no longer able to hire a private attorney.
- Amici Anderson, York & Stratton, PC assisted a victim who was severely beaten over several days by her husband, suffering a Traumatic Brain Injury, including a brain shift, multiple facial fractures, a broken nose, dislocated shoulder, and severe bruising and lacerations over her entire body. This was not the first time he physically assaulted her, but it was supposed to be the last. She is terrified that her husband, who only recently was convicted will be released because he is over 50 years old and has underlying medical conditions. Due to her injuries and need for ongoing care—stemming from the assault— as well as financial constraints, the victim does not have the means or physical ability to hide from her abuser, even though she is fears for her life.

³⁶ Her full impact statement is included in the Appendix.

³⁷ Her full impact statement is included in the Appendix.

As victim needs compound and are complicated by the COVID-19 restrictions, services are stretched beyond capacity. Finally, and most alarmingly, DOC has stated in their pleadings that they do not have the capacity to protect victims if large-scale releases are made.³⁸ During the current COVID-19 pandemic, many formerly incarcerated individuals on community supervision are being seen and monitored to a lesser degree than would ordinarily be the case. Treatment programs which provide an extra set of eyes on those being supervised, are not currently meeting. As a result, victims who must rely on supervision and monitoring as part of their personal safety plan are facing a gaping hole in the system. This reduced sense of security has already increased their anxiety and trauma.³⁹ A strong support system is vital to help a victim heal from abuse and stay safe.⁴⁰ Under the current conditions, these systems are limited or completely unavailable.

Petitioner's requested and Respondent's drastically shortened timeline precludes victims from getting the support they need to escape and take

³⁸ Index of Respondent Court Record, Appendix B at 13, 14 (reporting DOC's Victim Services is a very small staff within the agency, with 12 employees total: one program manager; four notification staff; and seven community victim liaisons who are responsible for services statewide).

³⁹ *Id.* at 14

⁴⁰ See K. M. Anderson et al., *Recovery: Resilience and Growth in the Aftermath of Domestic Violence*, 18 VIOLENCE AGAINST WOMEN 11, 1279-1299 (2012).

the appropriate steps for their own safety. They will likely be subjected to further trauma and injury, which will result in both short- and long-term physical, mental, and financial consequences. This would undoubtedly result in heightened demand for social services, where funding is already limited, such as emergency food banks and domestic violence and homeless shelters, and increased uncompensated health care costs from overutilization of emergency rooms for medical care. These costs to victims should be meaningfully weighed, measured, and mitigated.

D. A Victim-Centered Analysis Allows for Reduction in the Prison Population With Less Chance to Reoffend

The emergency timeline needed to release enough individuals to stem the spread must be balanced with victim's constitutional rights and need for safety and include a closer analysis of risk factors. Some criminal convictions have caused too much harm and trauma to allow any release at this time without proper intervention and efforts of rehabilitation. A simple classification of felony charges as "violent" or "nonviolent" does not address actual victim and public safety. For example, criminal no-contact order violations are treated as DOC probation violations, classified as a non-violent offense, and does not trigger victim notification; however, such violations can be an indicator of escalating behavior and raises lethality concerns. A final conviction is often not reflective of the harm

caused, due to how plea negotiations work. For example, in a case with multiple charges, a prosecutor may agree to drop the sex offense charge if the defendant pleads to the multiple drug charges. Once convicted for the drug charges, DOC is not obligated to notify the victim of the inmate's release, despite the original harm. Therefore, release planning necessitates individualized risk assessments.⁴¹ A history of prior physical abuse, especially near-fatal assaults, is the primary risk factor for intimate partner homicide.⁴² Past reports of sexual assault indicate a higher possibility of future rape. The most common murder weapon is a firearm; past possession often indicates future access. To develop effective violence prevention and effective intervention, the Court will need to consider this reality.

In considering risk to public safety while looking at means to reduce the prison population, research on reoffending patterns and individual risk assessments should guide any release plan. If we are to release individuals incarcerated to stem the spread of COVID-19, assessments must be made not only based on their criminal conviction, but also factors such as pattern and research on reoffending. Thus, when factoring individual

⁴¹ See, e.g., WAC 388-60B-0400 (4)

⁴² Christina Nicolaidis, MD, MPH, *Could We Have Known? A Qualitative Analysis of Data from Women Who Survived an Attempted Homicide by an Intimate Partner*, 18 J GEN INTERN MED. 788 (2003). Other behaviors such as stalking and strangulation also indicate a higher possibility of homicide.

victims' rights and conducting an individualized risk assessment, women inmates may be the population to focus on in Washington prisons.

E. Release Without Affording Victims' Rights to Notice and Input Not Only Violates Rights But Creates A Chilling Effect For All Victims, Present and Future

The incarceration of sex offenders often does not mean justice and safety for one victim – it ensures the safety of potential victims and other past victims whose rapes were never reported or prosecuted, but who continue to suffer the trauma of the harm.⁴³

A victim who was assisted by Amici King County Sexual Assault Resource Center after being raped by her father throughout her childhood, later learned that her father had also been abusing all her cousins. He is over 50 years old and this is his third felony. This victim is now a mother and fears not only for her and her cousins' safety, but also for the safety of her child. Should her father be released, she knows he will try to find them and perpetuate the same violent abuse that put them in fear of their lives in the first place. The family believes he will seek to fulfill his years long threats of killing her, or even her child as punishment for her testifying against him.

Additionally, there are real and devastating consequences to a victim's life when they are not allowed to provide any meaningful input related to the custody of their abuser. The stalking protection order statute, RCW 7.92,

⁴³ See David Lisak, et. al, *Repeat Rape and Multiple Offending Among Undetected Rapists*, 17(1) VIOLENCE AND VICTIMS 73,78 (2002) (In a study of 120 men self-reporting acts that met legal definitions of rape or attempted rape, but who were never prosecuted, the repeat rapists averaged 5.8 rapes each. The 120 rapists were responsible for 1,225 separate acts of interpersonal violence, including rape, battery, and child physical and sexual abuse).

was created after the stalking and murder of special ed teacher Jennifer Paulson in Tacoma, Washington. Her stalker had been released on bail after he had previously violated the anti-harassment order she had in place.⁴⁴

In 1982, Debra “Debbie” Estes was only 15 years old when she was raped and murdered by Gary Ridgway in Federal Way.⁴⁵ He became infamously known as the Green River Killer and plead guilty to the murder of 48 women and young homeless girls.⁴⁶ Amici Organization for Prostitute Survivors has supported and worked with several of the families of Ridgway’s victims. His, as with any inmate’s release, would require notification, victim input from families, initiation of safety planning and connection to multiple service providers around the state, if not the country for nearly 50 families in response to the release of one inmate. It is however, often after a horrific tragedy like Ridgway’s that the system adjusts in response.

⁴⁴ *Teacher Stalked, Shot Dead at Wash. School*, Feb 26, 2010 <https://www.cbsnews.com/news/teacher-stalked-shot-dead-at-wash-school/>, last accessed April 16, 2020.

⁴⁵ *Sister of Green River Killer Victim Fights To Change Child Rape Laws*, Feb 11, 2013, <https://www.king5.com/article/news/sister-of-green-river-killer-victim-fights-to-change-child-rape-laws/281-307978995>, last accessed April 16, 2020.

⁴⁶ Over 50 years old, Ridgway serves 49 consecutive life sentences without the possibility of parole at the Washington State Penitentiary and qualifies for early release under Petitioners’ eligibility requirements. *Green River Killer charged with murder no. 49*, February 6, 2011 <https://www.seattlepi.com/local/article/Green-River-Killer-charged-with-murder-No-49-1001136.php>, last accessed April 16, 2020

DOC's Victim Services program was created after the rape and murder of Renae Wicklund, her young daughter, and their neighbor Barbara Hendrickson in 1982. The defendant had served seven years for a prior rape against Renae and tracked her down while on work release.⁴⁷ The legislative and community efforts to remember the victims in these cases and create systems, pass legislation, and set up programs to assist victims are meaningless if the parties now disregard victim safety and bypasses victim input in their own safety needs. The urgency, created by the existence of COVID-19, for the release of inmates, cannot supersede the carefully designed statutory framework and Constitutional rights which is necessary for the protection and security of victims.

V. CONCLUSION

The Court should be cognizant of the very real impact on victims of violent and heinous crimes like sex offenses and domestic violence, who face enormous barrier to achieving safety under the best of circumstances and even greater barriers during this pandemic. While the Court considers the difficulty in navigating the safe release of the incarcerated population, victims must be a meaningful part of that consideration in order for any release to actually be safe. Under current pandemic conditions, victims

⁴⁷ *Key Dates in the Case of Charles Campbell*, May 26, 1994, available at <https://archive.seattletimes.com/archive/?date=19940526&slug=1912565>, last accessed April 16, 2020

who have already experienced extreme abuse and trauma risk being at the mercy of their abuser, with little to no opportunity for escape. Instead of feeling empowered and protected by the system, they are learning that once again, their safety and life has little consequence in comparison to their abuser's life. Amici urge the Court to center and protect victims within a release plan to address the current pandemic.

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CERTIFICATE OF SERVICE

I hereby certify that on the date listed below I electronically filed the foregoing with the Clerk of the Court by using the Washington State Appellate Court's portal, which will send a notice and copy of the electronic filing to all counsel of record.

Dated this 16th day of April, 2020.

/s Riddhi Mukhopadhyay
Riddhi Mukhopadhyay

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