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No. 98317-8

**SUPREME COURT OF THE STATE OF WASHINGTON**

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**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.

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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.<sup>1</sup> 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.<sup>2</sup>

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

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<sup>1</sup>Amici 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

<sup>2</sup> *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

<sup>3</sup> *History of Sexual Assault Awareness Month*, National Sexual Violence Resource Center, available at [www.nsvrc.org](http://www.nsvrc.org).

isolated and unable to access safe community resources.<sup>4</sup> Seattle Police Department alone experienced a 21% increase in domestic violence calls this past month.<sup>5</sup> 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.”<sup>6</sup> 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

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<sup>4</sup> 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](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

<sup>5</sup> 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

<sup>6</sup> 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.<sup>7</sup> In fact,

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<sup>7</sup>*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.<sup>8</sup>

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."<sup>9</sup> 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..."<sup>10</sup> 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

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

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

<sup>10</sup> *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.<sup>11</sup> 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.<sup>12</sup> However, the constitutional rights are intact. Deprivation of these rights will not be excused by administrative inconvenience and logistical difficulty.<sup>13</sup> Protocols for release without victim input and consideration of victim rights can and in some cases will cause significant harm to victims.<sup>14</sup>

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<sup>11</sup> 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).

<sup>12</sup> *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).

<sup>13</sup> *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).

<sup>14</sup> 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.”<sup>15</sup> About one in three women in the United States will experience sexual violence involving physical violence in their lifetime.<sup>16</sup> 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.<sup>17</sup>

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

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

<sup>15</sup> 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

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

<sup>17</sup> 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.

<sup>18</sup> *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.<sup>19</sup> 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.<sup>20</sup> Victims face bias and institutional barriers at every level of the criminal justice system, including victim-blaming prosecutors and judges.<sup>21</sup> Victims rightfully fear that they will be disbelieved or blamed.<sup>22</sup> 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.<sup>23</sup>

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<sup>19</sup> 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).

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

<sup>21</sup> *Id.*

<sup>22</sup> See *Rape in America* at 4

<sup>23</sup> 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.<sup>24</sup>

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.<sup>25</sup> 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.<sup>26</sup> 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."<sup>27</sup>

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<sup>24</sup> 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.

<sup>25</sup> 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.

<sup>26</sup> 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.

<sup>27</sup> 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.<sup>28</sup> 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

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<sup>28</sup> 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.<sup>29</sup> Service providers report that approximately 80% of domestic violence victims and 55% of sexual assault victims use the SNAP program.<sup>30</sup> Applications are increasing and slow to process as victims look to move away, leave their jobs or are being terminated due to COVID-19.<sup>31</sup> 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.<sup>32</sup> 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

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<sup>29</sup> 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

<sup>30</sup> 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

<sup>31</sup> 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.

<sup>32</sup> 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.<sup>33</sup>

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.<sup>34</sup> *Amici* Sexual Violence Law Center has been contacted by many terrified victims who have an array of needs<sup>35</sup>:

- 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

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

<sup>34</sup> 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

<sup>35</sup> 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.<sup>36</sup>

- 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.<sup>37</sup>
- 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.

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<sup>36</sup> Her full impact statement is included in the Appendix.

<sup>37</sup> 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.<sup>38</sup> 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.<sup>39</sup> A strong support system is vital to help a victim heal from abuse and stay safe.<sup>40</sup> 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

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<sup>38</sup> 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).

<sup>39</sup> *Id.* at 14

<sup>40</sup> 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.<sup>41</sup> A history of prior physical abuse, especially near-fatal assaults, is the primary risk factor for intimate partner homicide.<sup>42</sup> 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

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<sup>41</sup> See, e.g., WAC 388-60B-0400 (4)

<sup>42</sup> 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.<sup>43</sup>

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,

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<sup>43</sup> 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.<sup>44</sup>

In 1982, Debra “Debbie” Estes was only 15 years old when she was raped and murdered by Gary Ridgway in Federal Way.<sup>45</sup> He became infamously known as the Green River Killer and plead guilty to the murder of 48 women and young homeless girls.<sup>46</sup> 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.

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<sup>44</sup> *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.

<sup>45</sup> *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.

<sup>46</sup> 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.<sup>47</sup> 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

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<sup>47</sup> *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.

Respectfully submitted on this April 16, 2020,

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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 16<sup>th</sup> day of April, 2020.

/s Riddhi Mukhopadhyay  
Riddhi Mukhopadhyay

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
4/17/2020 8:00 AM  
BY SUSAN L. CARLSON  
CLERK

NO. 98317-8

**SUPREME COURT OF THE STATE OF WASHINGTON**

SHAYNNE COLVIN, et al.,

Petitioners,

v.

JAY INSLEE, et al.,

Respondents.

APPENDIX TO BRIEF OF  
AMICUS CURIAE SEXUAL  
VIOLENCE LAW CENTER,  
LEGAL VOICE, KING COUNTY  
SEXUAL ASSAULT RESOURCE  
CENTER  
Washington Constitution Article I  
& 35

Pursuant to article I, section 35 of the Washington  
Constitution, these victim impact statements are provided for the  
Court's consideration, with a brief summary of the underlying case  
for context.

**State of Washington v. Honolulu Molia, 16-1-04144-9**

Conviction: Two counts of Rape of a Child 1<sup>st</sup> Degree - Domestic Violence; Rape of a Child 2<sup>nd</sup> Degree - Domestic Violence; Five counts of Incest I - Domestic Violence; Two counts of Incest 2 - Domestic Violence

Sentence: Life

Brief summary: The defendant raped his minor daughter A.M. between the ages of 8 and 18 (charges from 2005 – 2014). He impregnated A.M. at the age of 16. The abuse was frequent; often during the night, on the way to and from school, at a Motel, and in a bed while her mother slept next to them. The defendant threatened that if the victim were to disclose anything, he would kill her mother and A.M. The victim recalled him stating that he was “not going to jail and that [he] would kill anyone that gets in [his] way.”

Victim statement by A. M., defendant’s daughter and survivor:

1. From the age of 8 – 18, my father sexually abused me. At the age of 16, I had a child from my father and she was the reason why my family was set free from him. For so many years, my father abused not only myself, but my sister, my cousins, and countless of others that have spoken to me after I had spoken out about it.
  - a. It has changed my life significantly as I am still affected by the memories, the trauma, the pain, the hurt, everything – that my father ever did to me – I am still trying to heal.

- b. I deal with the trauma, every day. I am not fully healed, and neither is my family. We have all been hurt and abused by my father, and we never knew until everything came out when we got older.
  - c. If you want to know more about how I am doing to this day, I would be more than happy to tell you anything that will help your case.
- 2. My advocate had called me yesterday and said that she thought about my family and I and how our lives would be in danger if my father were to be set free and here's why:
  - a. This was my father's third strike, and he was sentenced to life and there's a reason why that is.
  - b. If we went back in time, and I didn't reach out for help, I can promise you that my whole family would be dead just because of how abusive my father got as we got older and started speaking up for ourselves.
  - c. I can tell you, the details, and explain to you how manipulated we were, and brain washed and just – it still – hurts, to this day.
- 3. My first thought, was, this can't be happening.. I honestly, couldn't stop crying – and couldn't stop thinking, about all of the pain, all of the – fear, everything just came rushing back like it was yesterday that he was here.
  - a. I fear for my daughter that he would come back, and do the same things that he did to me, to her. Worst of all, take her away from me when I least expect it. I CANNOT put her life in danger – nothing was her fault.
  - b. I fear for my family, my friends, my loved ones, everyone that I know, my father knows them too, and their whereabouts and he has nothing to lose.
  - c. I can't tell you enough – When my father is in front of the Judge, or an attorney, or someone who doesn't know him, he is VERY different. When it was just my family and I, he would show us who he really is.
  - d. I was never allowed to go anywhere, to hang out with my friends, let alone have friends, I wasn't able to go over to my own family's house because my father would accuse me of sleeping around with my cousins.
  - e. Everything that my father ever did to me, still plays in my head and even though people tell me that I am

strong, I have a very hard time believing it because of what my father installed in my mental state of mind.

- f. If my father were to be set free, I would hide who I am just so he wouldn't find me and kill me, because I am the one that threatened his pride with the truth of how abusive he is.
  - g. I told my mother that I would move away and take my daughter and never come back. I would get as far away as I could from my father, I know what he is capable of, I've been through it and I do NOT want to go through it again. If I were to go through it again, suicide would be my only option. It has always been my option, but because of God, I am here today.
  - h. My father made me do things, that I still hurt from to this day. Not just me, but everyone in my family, my extended family, we're ALL hurt by what he did to us and how he kept us away from each other so we wouldn't speak the truth and to fear only him. As soon as I had my daughter, that is when I started speaking up for myself. When I did, my father would beat me and rape me behind closed doors, but I kept fighting.
  - i. Even if we had a restraining order against our father, a piece of paper would not stop him from killing us. He will stop at nothing. He's done it before, and he'll do it again.
  - j. Setting my father free, will not only affect myself and my family, it will affect everyone that knows us and was apart of the court. I fear for everyone else around us.
  - k. I planned to move out of the state, and it is very difficult because my mother's family lives here in Washington and I do not want to be away from them. If worse comes to worse with my father being set free, I will have to move away and once again, fight for my life and my daughter's life.
4. I have talked with my current job, about this situation, but they don't know the details, because I feel it is too much, and if my father were to be set free, I would leave instantly and not have time to say my goodbyes.
- a. I have places to go, but I do NOT want to put my family and friends in danger if my father knew my

whereabouts, he would come for whoever was helping me.

- b. I can move states, but in reality – where? With whom? Will I be financially steady to just leave my life behind and start all over with my daughter in a whole new state? I would be so lost without my mother and my siblings.
  - c. It's not that it's impossible to do so, it's just that I would be running away from my fear (my father) and why would I have to give up my life now, just because my father was set free from prison, when we fought our whole lives just to be safe, just to be heard, for him to be sentenced to life, and then all of a sudden he's free? I can understand how any survivor is feeling about their abuser coming after them and killing them for speaking the truth and for putting them away in jail.
5. Just the fact that my father has been put into jail, gives my family some kind of relief. It doesn't mean that we're not affected, because we are STILL fighting him, mentally.
- a. We have lots of family and friends that listen to us, and support us when it comes to this situation. But what about the other survivors who live by themselves? People that don't have the support like we do? Letting the abusers out of prison, will only complete their mission in killing us.
6. My father turns 52 this August. August 2<sup>nd</sup>, 1968 is his birthday, and he didn't have any health issues. I'm not sure about now, because I haven't spoken to him since I spoke out to the Kent Police Department.

**State of Washington v. Timothy Hernandez, 18-1-01002-29**

Convicted: Murder 2nd Degree - Domestic Violence

Sentence: 244 months DOC

Brief Summary: On August 26, 2018, Timothy Hernandez stabbed his girlfriend and mother of his children, Vanessa Cons, multiple times in the back and back of her head with a butcher knife before he severed her head off, placing her head onto her back. Their 3 year old daughter, who was present at the time, described to police that she saw “Daddy cut Mommy,” and was told by Daddy to “say goodbye to Mommy.”

Victim statement by Jorge Ahumada, brother of deceased victim:

04/16/2020

Your Honor,

My name is Jorge Ahumada, brother to Vanessa Cons who was brutally dismembered in front of her youngest child, her oldest child discovered her dismembered body. I am caring for these girls and the trauma will be lifelong. My family is trying the best we can to give them the best care and honor the memory of my sister. The release of Timothy P. Hernandez would be detrimental to my family, not only does it feel like an injustice. The girls would not be safe, he is not a person with a reasonable conscious and the girls lived under constant physical abuse along with my sister when they were together. During counseling both girls are still releasing unimaginable violence inflicted by their so called father. I spoke to my family about this last night, my mother cried and my father got upset and we are all worried for the well-being of the girls upon his potential release. His crime was not minor but it was heinous and worst of all done in front of children. I wake up a fair amount of days with the now 5 year old who witnessed the horrible event she has



nightmares stating her dad is chasing her with a knife. My family is still suffering and still grieving the loss of my sister and the manner in which she left this world was a nightmare. Timothy is a habitual offender, a violent individual and should not be released until his sentence has been satisfied. I understand the unprecedented circumstances and how life and health are being considered over consequences of actions right but releasing this current inmate would jeopardize the well-being of my family in all aspects. I urge and plea with you to please not release Timothy P. Hernandez. Thank you for your time and consideration.

Respectfully,

Ahumada/Cons Family

**State of Washington v. William Jensen, 03-1-07644-5**

Convicted: Four counts of Solicitation to Commit Murder 1st Degree

- Domestic Violence

Sentence: 60 years DOC

Brief Summary: While incarcerated for domestic violence charges of Felony Harassment, Violation of a Protective Order, Tampering with a Witness, and Telephonic Harassment, in July of 2003, at 46 years of age, the defendant offered a fellow jail inmate \$150,000 to kill his wife, their two children, and his sister-in-law.

Victim statement by Susan Harms, defendant's ex-wife and survivor:

As a VICTIM, I am contacting you with the fear that my Ex-husband (INMATE WILLIAM F JENSEN DOC #877996) Is in fact released, **HE WILL KILL ME.**

**This is a VERY DANGEROUS MAN, and if RELEASED, MY LIFE WILL BE IN DANGER!**

Mr. Jensen is my ex-husband and ex- KING COUNTY POLICE OFFICER that hired a HIT MAN to KILL BOTH MY CHILDREN, Scott Jensen, Jenny Jensen Finley, my SISTER, Linda Harms and myself in 2003.

William Jensen will be turning 63 years old next month and in "poor health".

As Ann Rule concluded in her book, "Smoke, Mirrors and Murder", Mr. Jensen is certainly a narcissist psychopath, and deemed scarier than even Ted Bundy.

Again, I KNOW for a fact if this man is released **MY LIFE WILL BE IN DANGER! PLEASE DO NOT LET THIS HAPPEN!**

**Sincerely,**

**Susan R. Harms**

Victim statement by Jenny Finley (formerly Jensen), survivor and daughter of the defendant:

Hello,

I am the daughter of Monroe Co. Inmate William F. Jensen and am writing in regards to the petition to release inmates due to COVID-19. Mr. Jensen hired a hitman to kill my mother, brother, aunt and me in 2003 and I fear is still a direct threat if he were to be released. I am deeply concerned that his release is being considered and I urge you to consider the victims of his crime. Thank you for your time and consideration in regards to this email.

Jenny Finley (formerly Jensen)

Victim statement by Carol Sikkema, family friend:

To Whom it May Concern,

William Jensen attempted to have 4 of his family members **murdered**.

Please keep our wonderful loving and giving neighbors safe (his ex wife, sister in law, son and daughter) he wanted them all DEAD.

DO NOT RELEASE this dangerous and emotionally unstable man.

Susan Harms is Bills ex wife and she and the kids are a wonderful part of our community, involved in the schools, local groups, a

church near by and a huge support to many around them. This family as had enough fear, loss and sadness - please keep this man in jail - the family deserves to be protected !

They deserve for him to not be out on the street again and to know their lives are not in jeopardy again.

Sincerely,

Carol Sikkema

**State of Washington v. Eric Woody, 17-1-00288-6**

Convicted: Attempt Murder 1st Degree Domestic Violence and Assault 2nd Degree, Deadly Weapon Enhancement

Sentence: 240 months DOC

Brief Summary: On March 12, 2017, the defendant, who was 51 years old, broke into his estranged wife's home, wielding a machete. Present in the home were his wife Rhonda Polinder, her friend Michael Rash, and her teenage niece. The defendant slashed at Ms. Polinder's head, severing the skin from above her ear down to the jaw bone, and slashed at her arm, which ultimately required amputation from the forearm down. The defendant also slashed at Mr. Rash, slicing into his head and arm.

Victim statement by Rhonda Polinder, survivor:

March 12, 2017 my life changed forever. I used to fish and play softball and do water-sports. Seems like a simple thing but it's not. I was brutally attacked by my ex-husband with a machete. He split my head in four places, sliced half of my face off and severed my left hand at the wrist almost severing several fingers and my right arm. I lost 4.5 pints of blood and received 396 stitches, and 4 screws in my left stub. Due to my injuries I lost a large part of my business but with the help of my family and many friends, I have manage to rebuild and am now able to support myself again. After many court dates Eric was finally sentenced and was finally moved out of Skagit county and placed far enough away that I actually got a good nights sleep. We have all finally been able to put our lives back together knowing he is behind bars. He was over 50 when he committed this assault on me and Michael. They want to let him out because he is over 50 this is ludicrous It means That I will have to

move away from my family and my friends, my son will live in fear and will also have to move. Eric use to say he would never hurt me he would hurt my family. At one of the court appearance he was told it was his 2nd strike, he responded he still had one more and smirked. If he is let out I will have to look over my shoulder and hide and move so I can try and keep myself safe. I do believe he will try and hunt me down and finish what he started. I have enclosed photos so you can see what he has done. Please don't let these criminals out to harm others.

Rhonda Polinder (Woody)

**State of Washington v. Arthur McKinnon, 17-1-01076-5**

Convicted: Rape of a Child 1<sup>st</sup> Degree

Sentence: 123 months DOC

Brief statement: From 2002 through 2007, the defendant vaginally and anally raped T.H. She was aged 7 through age 12. The defendant was her step-father, and told the victim if she were to report the abuse, it would “ruin the family.” At the time of interview, the victim (then 21) described the abuse likely occurred weekly, as it was too frequent to recall all incidents distinctly. She recalled the defendant recording some of the rapes with a video camera.

Victim Statement by T.H., survivor:

Hello, I am writing in regards to an inmate at Stafford Corrections Center, named Arthur James McKinnon.

Arthur is a dangerous offender who should not be released from custody, even due to Covid-19. I am pleading that you keep the public safe and protected, by keeping Arthur in custody for the remainder of his sentence.

I was 6 years old, the first time I was raped by Arthur, but it was far from the last time. Art continued raping me for over 6 years, only stopping due to serving prison time for a separate Child Molestation charge which prevented him from having unsupervised access to me.

Art manipulated me to keep quiet about the abuse by threatening my safety, and my families security. He convinced me that the abuse was my fault because it was my “discipline” for being bad, or getting in trouble for something. I was manipulated into not saying

anything about the abuse by being made to think that I was protecting my three other sisters.

There were nights when I woke up, being carried out of my own bed, half asleep and being taken against my will into his, the sharp pain between my legs reminded me that this wasn't a dream, in fact I was actually awake for all my nightmares. He was my nightmare.

Art is a dangerous offender who doesn't have an ounce of empathy, his danger knows no limits, He once raped me while I was being admitted to the hospital as a young girl for severe dehydration, and had been vomiting for over 12 hours straight. He truly knows no bounds.

If Art is released, he will continue to offend against other young girls. As he is currently serving his third sentence for sexual related crimes. He has shown no repentance or regret for the previous crimes he committed, and currently has a minor child at home whose safety I fear for if he were to be released.

My healing Journey only just now began, Art has currently only served a year and half, towards his minimum 10 year sentence. Releasing Art is a direct threat to the public.

I could never fully put into words how deeply this experience has impacted me. I could never fully relay how terrified I am of the dark, or getting in trouble, or black trucks and red Suburbans. I could never express in any form the way my blood curdles when I hear Art's name, or the panic attacks that I experience when doing everyday things.

I was asked recently who I would be without the abuse in my story and the truth is I can't even imagine who I would be. The fact is the abuse started at such a young age that I can't remember who I was before, and now I will suffer with the effects of that trauma forever. There is no before rape and after rape. There is just pain and suffering and trying to get through life day by day.

I have no sense of what it means to have safety and security. I question every place I go to, or person I meet. I question the motives of men in my life and constantly wonder if I can trust them.



I can't go to a new restaurant because I don't know where the exits are. I constantly look behind me when walking in parking lots and grocery stores. I get panicked when I run into the same person in one too many isles. I'm unable to relax and enjoy a movie in a theater. There is no place I can go where I feel 100% safe. I feel like I am constantly holding my breath, unable to enjoy things in life because I am constantly scared of what could be coming. I have been diagnosed, and am being treated for PTSD, Anxiety, depression and Panic disorder. This has made normal every day function reliant on the use of medication. My PTSD, anxiety, and depression have impacted my quality of life, and while medication helps it will never erase the pain and suffering I have endured at the hands of this Arthur McKinnon.

Arthur being sentenced was the beginning of the healing journey for not only me, but numerous other women who were abused and manipulated by him. I am asking that you seriously consider the threat that Arthur poses and not release him early, due to any circumstance.

Thank you,

T.

**State of Washington v. Michiel Oakes, 09-1-00909-0**

Convicted: Murder 1st Degree

Sentence: 320 months

Brief summary: On October 28, 2009, the defendant, then 51 years old, with a plan to assassinate the ex-husband of his girlfriend, travelled across the mountains. He went to the home of the victim, shot, and killed him, and then disposed of the body. The body has never been recovered.

Victim Statement by Victoria Simmons, sister of the decedent:

My Perception of How the Crime was Committed

Mark had knowledge about Kikit Island that could have scuttled the sale and profit Opdycke was anticipating (The documents were in his gun safe). Michael Oakes was hired to kill Mark. When Oakes arrived at my brother's home, Ding, my brother's Malinois alerted. Mark let Ding out the carport door. Michael Oakes shot Ding three times, then went into the house and shot Mark in the back of the head as he fled down the hall. Michael dismembered Mark in the bathtub, cleaned up the mess and transferred the body to Mark's station wagon. Mark had no guns or ammo in the house, but the wedding pictures were there.

The Impact That This Crime Has Had on Me

The first three years were exhausting. I was juggling my Atlanta business, family, the care of my mother and managing Mark's estate, in addition to several trips to Boston's Brigham and Women's hospital to treat my daughter's rare illness. I also had to defend a lawsuit against the estate. I made at least 15 trips to Seattle during that time.

I'm now serving out my Life Sentence. I think of Ted (Mark) often, could I have done anything that might have prevented this? How alone he must have felt those last moments of his life. Where is his body? If Mark was still alive, how he and my two children would

have delighted in each other. I miss the late night calls, when we talked for hours. We were witnesses to each others identity. I though he was brilliant, he thought I was strong.

In My Opinion the Court Should Consider

Require that Oakes serve his entire sentence. He has not told the truth about how this murder came about or who paid him. He has not revealed the location of my brother's body or the identities of his other accomplices.

Respectfully Submitted



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A. Victoria Simmons  
Sister of Mark Stover

**State of Washington v. William Rodgers, 12-1-00555-8**

Convicted: Murder 1st Degree – Domestic Violence

Sentence: 320 months

Brief summary: On May 28, 2012, law enforcement responded to a call from William Rodgers, then 52 years old, that his wife had fallen down the stairs and was not breathing. An autopsy confirmed death by strangulation, including broken bones and bruising in her neck. Subsequent investigation revealed the defendant researched online “how to break a neck” and “how dangerous is it to fall down stairs” the day prior to his wife’s murder.

Victim statement by Natasha Joy Rodgers, daughter of the decedent and daughter of the defendant:

My Perception of How the Crime was Committed

On May 28th, 2012, I received a phone call from my father saying that my mother was gone. That she was dead and that it was an accident. I flew home and was with my father for two days before he was arrested. When I saw my father with three large scratches on his forehead going back into his hair, and the scratches on his arms... I knew in my gut that those came from my mother's fingernails as she was fighting for her life. My father lied to me saying that it was all an accident and was coaching me for when I would have to give my statement to the officers. I had to be with him for 48 hours until he was arrested. I laid awake in the night as he slept because I was afraid. Fortunately I had family friends that never left his or my side until he was arrested.

October 2014 when the trial happened, the prosecution proved that he committed First Degree Murder. He pinned her down, where she had a massive internal bruise on her chest plate, caused from his knee, I'm assuming. He beat her and she struggled to get

free. She reached up and clawed his face and scratched his arms for him to release her, and he used a cord or rope and strangled her in cold blood. He broke multiple bones in her neck, beat her to where the funeral home wasn't able to hide any of the bruising, and he staged the crime scene to make it seem like she 'fell down the stairs'. He murdered her, with all knowing intent, and the prosecution proved that in the 3 week long trial.

### The Impact That This Crime Has Had on Me

I lost my mother, who was my very best friend. She was the most wonderful human being on this earth and he took her out of my life. Purposely. For three and half years he tormented us. The trial kept getting postponed and pushed back and he allowed criminals to move into my family home. My brothers and I lost the majority of my mother's belongings because we did not have access to collect what was rightfully ours. Not only do I not have my mother, but I lost endless photos of my childhood and memories with her. After he was convicted on 10/31/2014 of First Degree Murder, he preceded to sue my brothers and I for the sale of our home for another 10 months. It was utter hell for those 3.5 years as I had to deal with him.

I testified on the stand for nearly 4 hours. It was excruciating having to be 10-15 feet from him and to be berated by his defense attorney. But my brothers and I had to fight for our mother and to make sure that he was tried for what he did. On January 5th, 2015, was his sentencing hearing and the three of us stood in front of the judge and pleaded for him to have maximum sentencing. I cried my eyes out begging for him to be locked away for the rest of his life. He does NOT deserve to be a free man. He maliciously and purposely took my mother's life and made our lives hell for years.

I continue to have nightmares. I am depressed. I have not been able to accept her death, to this day, because I am still so angry at what he did. I will never be able to forgive him, because I don't believe he should be granted a second chance at life himself when he took the MOST important person out of my life. I fear for the day that he gets out of prison. I fear that he would try and find my brothers or myself. In today's world, he can easily be able to find us with technology at our fingertips. He is a smart, spiteful, and manipulative man with years of military training. I truly do not believe that he would leave us alone as we all testified against him and plead for him to be in prison for as long as possible. I fear that he would seek vengeance

on us. I fear that he would come after me or anyone in my family and continue the pain that we caused him.

The thought of him getting out of prison terrifies me to my bones. He ruined my life, the day I lost my mother... I lost a part of my soul and I have to live the rest of my life without her.

#### In My Opinion the Court Should Consider

I think this is absolutely dangerous for the state to release any person that committed such violent and heinous crimes. No person who KILLED another person, should be granted a second chance. You are putting MORE people in danger by releasing these criminals back into society when you have NO idea their mindsets and what they will do.

I am a victim and I cannot live freely knowing that he would be released due to COVID19. No murderers or rapists should be able to join society to put thousands at risk.

I beg to you, Governor Inslee, PLEASE do not make this decision to release hundreds or thousands inmates back into society. PLEASE..... You would do far more damage to all of the victims and you will never know our pain and fear. I learned of this news today and it brought me to my knees in pure fear of him and others being released. PLEASE, do not allow these awful people who committed awful crimes to come back and wreak havoc or get their revenge.

I think the State of Washington needs to consider that there are far more victims than there are inmates and they were tried and convicted and sentenced. I shouldn't be punished for COVID19, to have to fear the rest of my life.

Respectfully Submitted

/s/Natasha Joy Rogers

Natasha Joy Rodgers

Victim statement by Jeremiah Rodgers, son of the decedent, son of the defendant:

My Perception of How the Crime was Committed

My father strangled my mother to death.

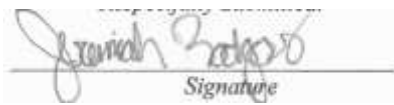
The Impact That This Crime Has Had on Me

This has caused so many hard and painful emotions that to this day still have not gotten better. I still have nightmares of him trying to seek revenge and kill me and my family. I am truly scared that if he is released he will seek vengeance on us and will be worried for our lives. He is a smart psychotic monster who manipulates everything to get his way. We all dread the years to come when he might get out.

In My Opinion the Court Should Consider

This is unheard of to possibly release murderers back into society. This man has already taken one beautiful human beings life who was my mother and if you let him out I'm sure he wouldn't care to take more. The sentencing court should know that releasing these people are putting your own state's citizens' lives at risk.

Respectfully Submitted

A handwritten signature in cursive script that reads "Jeremiah Rodgers". Below the signature is a horizontal line, and the word "Signature" is printed in a small, italicized font directly under the line.

Jeremiah Rodgers

Victim statement by Nicholas Rodgers, son of the decedent and son of the defendant:

My Perception of How the Crime was Committed

Your honor, my father William Rodgers killed my mother. If he is released from prison I believe he will come for me, and for every person in my family. He will be filled with vengeance, hatred, anger, and he will not stop until HE believes he has settled his score for

being convicted. I am truly scared for my life and for the lengths he will go if he is released. He MUST not be released.

The Impact That This Crime Has Had on Me

My life has been in ruin. I am emotionally wrecked by his betrayal. He killed my best friend in this world, and he needs to stay in prison for his crimes.

If he is released I will need to move out of this state, completely uproot my life, career, family, and even consider leaving the country. That is how devastating this would be for me and it would be the same for my brother, sister, and friends because William's hatred would never end his hunt to haunt and torment us in every way.

In My Opinion the Court Should Consider

Please, I beg you DO NOT release my father. He is a dangerous person and will cause a world of harm if he is released.

Respectfully Submitted

  
Signature

---

Nicholas Rodgers



**State of Washington v. Sione Lui, 07-1-04039-7**

Convicted: Murder 2nd Degree

Sentence: 200 months DOC

Brief summary: On February 2, 2001, the defendant strangled and killed his fiancé Elaina Boussiacos. She wanted to end their relationship. Her body was located in the trunk of her car in a parking lot.

Victim statement by Jacquelyn Paneque, friend of deceased victim:

In Feb 2001, Sione Lui murdered my best friend. It completely altered the entire course of my life and everyones life who loved her. I went to such a dark place it took me years and years to heal from it. This possibility feels like the wound is being reopened.

He wasn't arrested until 2007, and wasn't convicted until 2008. Judge Trickey gave him almost the maximum, but with time served he will be out in June 2021.

Elaina was the most beautiful soul you will ever have met. She had a young son, and she was only 27 when she died. She now has two beautiful grandchildren and they will never know her. I have finally just healed from this.

I'm begging you to keep this man in prison until the very last day. I don't really care if he gets it. I don't wish it upon him but I also wouldn't lose any tears. He raped her, beat her up, and strangled her. They couldn't prove it was rape but I know she wouldn't have had sex with him willingly, she was leaving him. He then dumped her in the back of a trunk and we searched for her for a week.

I have emailed the governor.

Jacquelyn Paneque

**State of Washington v. Miguel Paniagua, 15-1-50153-3**

Convicted: Vehicular Homicide by DUI, Hit and Run Fatality, Attempt to Elude Law Enforcement, Unlawful Possession of a Firearm in the 1st degree Enhancement and Conspiracy to Commit Robbery 2nd Degree

Sentence: 102 months DOC

Brief summary: As the defendant fled from law enforcement, at speeds over 100 mph, his vehicle broadsided the vehicle of then 36 year old Jason Smith. The defendant was intoxicated and fled the scene of the fatal accident.

Victim statement by John Ed Smith, father of the decedent:

I lost my 36 year old son in a hit and run homicide, the defendant was running from Pasco police as he was a wanted gang member, speeds got to over 100 mph so police called off chase, but Paniagua kept his truck at very high speeds and broadsided my son's car at Sylvester and Road 36 in Pasco – Paniagua runs and hides from the scene leaving my son to die 2 hours later. Police could not find Paniagua for 2 weeks, turns himself in after 2 weeks of hiding with someone – he needed time to sober up, is what I think. My life has not been the same – have a fear for gang and possible retaliation from his gang buddies

No way does he deserve any consideration for early release – retaliation

The local police is the only resource I have for immediate access if the defendant was released – have security door bell camera

I don't own a gun & don't want to own one, but may have to get one

Paniagua is in his late 20's, don't know of any health issues – he is scheduled for early release in Dec. 2020, after 4 years in prison.

**State of Washington v. Richard Kirkham, 11-1-00628-9**

Convicted: Manslaughter 2nd Degree Deadly Weapon

Enhancement and Conspiracy to Commit Robbery 2nd Degree

Sentence: 180 months DOC

Brief summary: On June 25, 2011, the defendant set out to collect a debt from the victim. He paid a friend to drive, and participated in the beating of the victim, Kenneth Stewart, with a club. Stolen from the victim were his medication, cell phone and wallet. The next day, the victim succumbed to his injuries.

Victim statement by Richard Coon, family friend of deceased:

I am writing you on behalf of my sister in law. Her brother was killed by Richard Kirkham and was told that he may be getting out of prison early. Please don't let this happen. Her family doesn't feel safe with him out.

Thank you

Victim statement by Seth Coon, nephew of deceased:

Hello this is in regards to Richard Kirkham being released from prison.

I don't feel that he has served enough time for murdering my uncle. I also do not feel safe for my grandmother with him being released. He has already threatened her before, and should not be given the opportunity to harm or harass her or any other people. We did not get to choose to have this pandemic. However Richard Kirkham chose to kill my uncle in cold blood. So please, let's do the right thing, keep Richard Kirkham and his fellow murderers where they belong, incarcerated!

Thank you, Seth Coon

Victim statement by Tiffany Coon, family member of deceased:

I am writing in the regards to Richard Kirkam getting released because of the Covid19 our break. As a family member of the murder victim it is very sad to see some one be let out because of such a thing. The rage an level of insanity that over takes some one to want to murder is something that is not fixable and is a ticking time bomb of when it will go off again. We also fear for the victims mother who is an older senior that lives by herself and would have no way of perfecting herself if he ever tried to be in contact with her.

The press conference stated that it was releasing people with low level offenses and charges, Richard Kirkam and his murder charge should not be taken lightly. For the sake and safety of our family and public Richard Kirkam needs to stay and serve his full charges.

Thank you  
Tiffany

Victim Statement by Tani Latham, family member of deceased:

To whom it may concern,

As far as releasing inmates from Washington state prisons I am against this, you state non violent but are releasing Richard Kirkham inmate # 756060 who was on parole from Monroe Prison when he murdered my brother. Richard Kirkham just tried for early release and we said no, so I am sure he is pretty upset with us and while he was going through trial and my 75 year old mother was testifying he tried to intimidate her, I AM AFRAID FOR MY MOTHERS LIFE.

This inmate is nothing but trouble and has not changed, please take a look at his Facebook video where he talks about how safe he is in prison from the corona virus, talks about their social distancing and laughs about if you don't want to get corona virus

"catch a serious felony and do 15 years". Stating himself that he is safer from the virus there. Then brags about if you want to contact his sons one is at the same prison with him and one is in juvy.

The virus is coming from the outside, stop visitations, no mail, and test officers. You will spend more money housing these inmates on the outside and put the public in danger.

Richard Kirkham needs to finish his time.

Thank you for your time & please do more research before releasing inmates. Tani Latham

Victim Statement by Gaii Smith, mother of deceased victim:

Mr. Inslee,

I am contacting you in regards to your plan to release inmates from Washington prisons, I am absolutely against this, you are putting every citizen in Washington state in danger. I am particularly against the release of inmate Richard Arthur Kirkham inmate #756060 in Stafford Creek Corrections in Aberdeen.

In June 2011 he beat my son to death, he had never met my son he did this for a friend. He received ten years for this murder which in its self is an injustice he should have received life. Don't tell me he won't do this again because he was on probation from Monroe prison when he murdered my son.

You can certainly find a way to test inmates and if they show signs of the virus I'm sure you can find a area to put them in. Putting these inmates back on the streets with no where to go and no jobs is just absolutely wrong. I hope you think long and hard before you release these inmates especially Richard Kirkham, just take a look at his record and then tell me he should be out of prison.

Sincerely Gaii Smith

Victim Statement by Christine Varga, family friend of deceased:

I'm writing to voice my objection to the potential release of prisoner, Richard Kirkham, serving time in Aberdeen. Not sure how he could be considered a non-violent prisoner. He's serving time for his part in the murder of my good friends brother. I totally object to his release, and the release of any offenders that are slated for potential release - that share his "non violent" designation. Please make a note of my objection. Sincerely; Christine Varga

# NORTHWEST JUSTICE PROJECT

April 16, 2020 - 5:09 PM

## Transmittal Information

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**Appellate Court Case Number:** 98317-8  
**Appellate Court Case Title:** Shyanne Colvin et al. v. Jay Inslee et al.

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