Comments on Proposed Rhode Island Judiciary Rules of Practice Governing Public Access to Electronic Case Information
April 11, 2025

This testimony is submitted on behalf of The Immigration Coalition of Rhode Island, a network of 38 organizations that represent, assist, or otherwise regularly interact with members of the immigrant community, and which is committed to ensuring fair and equal treatment of that community.

Our testimony focuses on one particular aspect of the Court's proposed rules, and one that has become increasingly relevant in recent months: federal agency and law enforcement access to confidential court records.

The current rules bar members of the public, attorneys, self-represented litigants, and named parties from obtaining access, whether at the courthouse or remotely, to "sealed cases or documents, or non-public case types, documents, or information." State and federal agencies, on the other hand, are authorized to obtain these confidential records "in specific circumstances as authorized by the Judiciary." Those circumstances are not defined in any way in the rules.

The proposed rules maintain these provisions but add a new category of accessors, "Law Enforcement Agencies." Like state and federal agencies, any and all law enforcement agencies would now also be able to access non-public records "when authorized by the Judiciary."

Our coalition wishes to express its deep concern about the undefined "specific circumstances" that would allow federal, state, and law enforcement agencies access, without a warrant, to what is otherwise confidential court information. Our concern arises in the context of recent actions by U.S. Immigration and Customs Enforcement (ICE) – both in Rhode Island and across the country – to effectuate arrests in state courthouses.

We have heard from a number of local criminal defense and immigration attorneys who have referred to clients who have been arrested either in or directly outside of our courts and then moved to the Wyatt Detention Facility. The effect of these arrests by ICE agents is to deter residents from accessing essential court services, potentially undermining the safety of the entire community.

It is unclear to us exactly how or where ICE is obtaining information about the undocumented status of plaintiffs, defendants, and witnesses in order to be prepared to arrest and detain them directly from their court visits, but the inclusion in these rules of a provision that allows – even encourages, we would argue – ICE to ask for records that may contain such information is cause for great alarm.

This fear has taken on even more urgency and legitimacy with the announcement this week by the Internal Revenue Service that the agency has reached an agreement with the rogue Department of Government Efficiency (DOGE) to share confidential tax information that can provide information

on the immigration status of filers. Under the circumstances, it is far from hypothetical to envision DOGE or ICE or other federal agencies seeing the court's access rules as an opportunity to engage in similar data mining with this state's court records. While we recognize that the rules leave any such access to the discretion of the court, the mere possibility of access is enough to cause fear in the immigrant community, and will place the courts in the difficult position of having to say "no" to requests from the federal government itself.

Last month, our coalition sent a letter to Chief Justice Suttell, urging him and the court to take administrative action to address the growing tide of immigration enforcement taking place at or near courthouses in the state. As our letter noted:

> [P]eople come to court to obtain restraining orders, obtain child support orders, seek back wages, testify in criminal cases, and pay traffic fines. The administration of justice depends on all people having free and full access to the courts. The state judiciary cannot deliver the promise of equal access to justice and due process under law if a segment of the community is afraid to access the courts.

Because the provisions we have cited in the current and proposed rules open the door for federal agency access to confidential court documents that might provide information about the immigration status of parties or witnesses, we urge that the proposed rules be amended to prevent this. Specifically, we request that the rules be amended to (1) allow federal, state, and law enforcement agencies to obtain access to confidential court records only with a judicial warrant, and (2) clearly delineate the "specific circumstances" that might otherwise authorize any other agency to obtain access to these records.

Our coalition deeply appreciates your consideration of this important request.