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IN THE SUPREME COURT OF THE STATE OF ARIZONA

IN THE MATTER OF

R-12-0007

**PETITION TO AMEND
RULE 6E(4)E(2), RULES OF
PROTECTIVE ORDER
PROCEDURE**

**ARIZONA PROSECUTING ATTORNEYS'
ADVISORY COUNCIL'S
COMMENTS TO PETITION TO AMEND
RULE 6E(4)E(2), RULES OF PROTECTIVE
ORDER PROCEDURE**

Pursuant to Arizona Rules of the Supreme Court, Rule 28(C), the Arizona Prosecution Attorneys' Advisory Council ("APAAC") hereby submits its comments to the Petition to Amend Rule 6E(4)E(2) of Rules of Protective Order Procedure. APAAC respectfully recommends that the Supreme Court consider accepting the proposed rule amendment, as explained below.

I. Preface

One of the roles of prosecutors is to obtain justice on behalf of the State and ensure that victims have access to and are provided the full protection of the law. In this regard, the legal system strikes a careful balance between public safety and

the rights of its citizens. APAAC supports the proposed amendment to the Arizona Rule of Protective Order Procedure regarding Injunctions against Harassment, recognizing the need for guidance in this extraordinary process. APAAC believes the change proposed by the Arizona Supreme Court will afford protections to potential victims while protecting the rights of potential defendants.

II. General Observations Regarding the Proposed Rule

Injunctive relief is by its nature extraordinary. The Injunction against Harassment statutes and rules place specific burdens on the plaintiff in order to obtain the extraordinary relief such an order affords. The additional language in the proposed amendment provides guidance to the court in ascertaining the type of “other relief” necessary to protect an alleged victim while balancing the liberties to which the absent defendant is entitled.

Requiring the plaintiff to present credible evidence is a reasonable way to strike a proper balance, particularly where weapons, firearms and ammunition are involved. The language of the proposed amendment, which provides critical guidance to a judge in making the decision to limit a person’s liberty, should be a welcome clarification both for the judge and the public. Moreover, that approach is consistent with the federal law and state statute.

Respectfully submitted this 20th day of May, 2013.

ARIZONA PROSECUTING ATTORNEYS’ ADVISORY COUNCIL

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By: _____
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