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2 (FIRM STATE BAR NO. 00032000)

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9
10 **ARIZONA SUPREME COURT**

11 **PETITION TO AMEND ARIZONA**
12 **RULE OF CRIMINAL**
13 **PROCEDURE RULE 15.4(b)**

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MARICOPA COUNTY ATTORNEY'S
PETITION TO AMEND ARIZONA RULE OF
CRIMINAL PROCEDURE 15.4(b)

14 The Maricopa County Attorney's Office frequently encounters discovery
15 materials that contain sensitive information of witnesses. This information includes
16 information such as social security numbers, driver license numbers, bank account
17 information, and medical identification numbers that could pose a threat to an
18 individual's financial and/or personal safety if it fell into the wrong hands. Arizona
19 law currently does not allow the State to redact a witness's sensitive information from
20 discovery materials, even if that information is in no way pertinent to the charged
21 offense(s), unless the witness is the victim and the information fits the narrow definition
22 of "identifying and locating information" in Arizona Rule of Criminal Procedure
23 39(a)(2).¹
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28 ¹ In State ex re. Montgomery v. Chavez/Gill, 234 Ariz., 255, 321 P.3d 420 (2014), this Court clearly found that the State

1 In today's world, sadly, there is a risk of harm when sensitive personal identifying
2 information is shared with untrusted sources. Identity theft and other fraud is rampant
3 and great damage can be caused to an individual if such sensitive information is used
4 improperly. When a witness provides their sensitive information to law enforcement,
5 they should be able to have confidence that giving this information will not cause them
6 future harm. Unfortunately, in our current system, we cannot give them that
7 confidence. Discovery materials with this sensitive information are given out each day.
8 While we trust that our criminal justice associates will treat such information
9 respectfully, they cannot control who it might be shared with or who might have access
10 to it once it is passed on.
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12 We understand that there are some cases where a witness's sensitive information
13 may be a relevant aspect of the case. This Petition is not meant to impact these cases
14 and provides a mechanism for disclosure in such circumstances. Rather, this Petition
15 is focused on the majority of criminal filings where the sensitive information of a
16 witness has no bearing on the facts of the case itself. Currently, a court order must be
17 requested in order to withhold a witness's sensitive information. While such requests
18 are invariably granted, this process is time consuming for all involved. The realities of
19 our society demand that we be protective of a witness's sensitive information and a
20 time consuming request of the court shouldn't be required for us to do so.
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28 cannot unilaterally redact personal identifying information from discovery without proper authority and suggested that
the State could seek a rule or statutory change.

1 For all of these reasons, the Maricopa County Attorney's Office petitions this
2 Court to amend Arizona Rule of Criminal Procedure 15.4(b) as follows (proposed
3 language is capitalized):
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5
6 **Rule 15.4**
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8 **(b) Materials Not Subject to Disclosure.**

9 (1) Work Product. A party is not required to disclose legal research or
10 records, correspondence, reports, or memoranda to the extent they
11 contain the opinions, theories, or conclusions of the prosecutor or
12 defense counsel, members of their respective legal or investigative
staff, or law enforcement officers.

13 (2) SENSITIVE DATA. A PARTY IS NOT REQUIRED TO
14 DISCLOSE A WITNESS'S SOCIAL SECURITY NUMBER,
15 DRIVER LICENSE NUMBER, BANK ACCOUNT NUMBERS, OR
CREDIT CARD NUMBERS.

16 (A) IF ANY INFORMATION IN (b)(2) IS NECESSARY TO PROVE
17 A CHARGED OFFENSE, THE STATE MAY DISCLOSE
18 SUCH INFORMATION OR MAY SEEK A PROTECTIVE
19 ORDER OF THE COURT, IN WHICH CASE THE COURT
20 MUST ISSUE A PROTECTIVE ORDER LIMITING THE USE
AND DISTRIBUTION OF THE INFORMATION ORDERED
TO BE DISCLOSED.

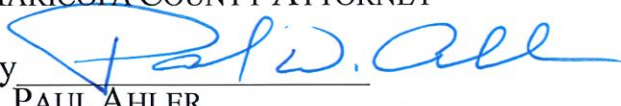
21 (B) EITHER PARTY MAY SEEK DISCLOSURE OF
22 OF REDACTED INFORMATION AS PROVIDED IN RULE
23 15.1(g) or RULE 15.2(g) AND IF SUCH REQUEST IS
24 GRANTED THE COURT MUST ISSUE A PROTECTIVE
ORDER LIMITING THE USE AND DISTRIBUTION OF THE
25 INFORMATION ORDERED TO BE DISCLOSED.

26 (2) Informants. A party is not required to disclose the existence or
27 identity of an informant who will not be called to testify if:
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1 (A) disclosure would result in substantial risk to the informant
2 or to the informant's operational effectiveness; and
3 (B) a failure to disclose will not infringe on the defendant's
4 constitutional rights.
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8 Respectfully submitted this 21 day of 2022.

9 MARICOPA COUNTY ATTORNEY

10 By 

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12 CHIEF DEPUTY
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