

June 10, 2024

SENT VIA EMAIL AND US MAIL

Robert Brutinel, Chief Justice  
Arizona Supreme Court  
1501 W. Washington St.  
Phoenix, AZ 80007

Re: Rule Petition R-22-0045

Dear Chief Justice Brutinel:

Please let this letter serve as a status report, not a final recommendation, concerning your August 31, 2023 letter to the State Bar requesting that the Criminal Practice and Procedure Committee “evaluate approaches to improving Rule 39(b)(12).”

After receiving the letter, the Criminal Practice and Procedure Committee formed a workgroup consisting of committee members and outside stakeholders, including victim rights attorneys, to discuss various approaches for improving Rule 39, including those suggested in the letter. The workgroup has since met approximately seven times over the course of seven months.

Although some members believed that the issues identified in the August 31, 2023 letter should be addressed only after the federal litigation is resolved, a majority of members of both the workgroup and the Criminal Practice Procedure Committee concluded that issues concerning victim interview requests under Ariz. R. Crim. P. 39(b)(12) were sufficiently distinct from the federal First Amendment litigation concerning victim contact to warrant continued deliberations to answer the Court’s letter.

A majority of the workgroup has now agreed upon several amendments to improve the rule. It is currently in the process of drafting a rule change petition proposing that the Court adopt these amendments. Once the petition is complete, it must be approved by the Criminal Practice and Procedure Committee as a whole and approved by the State Bar prior to filing. As such, the workgroup anticipates that the petition will not be filed until after the August and December 2024 Rules Agendas and will thus seek consideration at the August 2025 Rules Agenda.

Victim rights attorneys who participated in the workgroup continue to believe that the issues identified in the August 31, 2023 letter should be addressed after the federal litigation is resolved so that a more complete assessment of Rule 39 can be undertaken rather than piecemeal changes that may implicate other issues and challenges. As a result, although the victim rights attorneys have given input into proposed changes and may be supportive of some future proposals, victim rights attorney participants expect to oppose any proposed workgroup changes to Rule 39 before the Criminal Practice and Procedure Committee, the State Bar and in any subsequent Petition before this Court due to the uncertainty caused by the unresolved federal litigation.

Sincerely,



Scott Boncoskey



Kevin Heade

**Co-Chairs**

Rule 39 Workgroup, Criminal Practice & Procedure Committee  
State Bar of Arizona