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SUPREME COURT OF ARIZONA

In the Matter of:

PETITION TO AMEND RULES 12,
23, 25, 26, AND 38 OF THE
ARIZONA RULES OF PROTECTIVE
ORDER PROCEDURE

Supreme Court No. R-26-0004

**COMMENT ON PETITION TO
AMEND RULE 23 OF THE
ARIZONA RULES OF
PROTECTIVE ORDER
PROCEDURE (ORDER OF
PROTECTION)**

Pursuant to Supreme Court Rule 28(e), the Arizona Attorney General's Office submits this comment in support of the Petition to amend the rules of protective order procedure. The proposed amendments create a more comprehensive and accurate process for judicial officers to identify defendants who pose a credible threat to the physical safety of victims. This process and the

proposed standardized implementation procedures will protect victims by facilitating the effective removal of firearms from dangerous defendants.

I. The proposed amendments harmonize Rule 23 with Arizona statutes.

As the Petition observes (at 6-7), the current version of Rule 23(i) incorrectly links a judicial officer's determination that a defendant poses a credible threat to a victim's physical safety to the defendant's use of or access to a firearm. *See* Rule 23(i)(1) (judicial officer "must ask the plaintiff about the defendant's use of or access to firearms *to determine* whether the defendant poses a credible threat to the physical safety of the plaintiff or other protected persons") (emphasis added). The current Rule is inconsistent with A.R.S. § 13-3602(G)(4), which provides that if a judicial officer "finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons" the officer may "prohibit the defendant from possessing or purchasing a firearm for the duration of the order." The statute does not limit the credible-threat determination to the defendant's use of or access to a firearm.

The proposed amendment thus conforms Rule 23 to the statutory language by directing judicial officers to make a credible-threat determination based on a range of factors, including (but not limited to) the defendant's use of or access to a firearm. Pet. at Appendix A.

II. Identifying a credible threat using evidence-based criteria promotes public safety.

The Office agrees with the Petition (at 6-7) that the current Rule fails to reliably identify defendants who pose a credible threat to the physical safety of protected persons, leaving victims of intimate partner violence at a higher risk of death.

The presence of a firearm alone increases a domestic violence victim's risk of death,¹ but it is far from the only factor indicating a credible threat to a victim's physical safety. The proposed amendment includes factors taken directly from the Arizona Intimate Partner Risk Assessment Instrument System (APRAIS) for judicial officers to consider when making a credible-threat determination. APRAIS is the only validated intimate partner risk assessment tool recommended for use by the Arizona Supreme Court. It is based, in part, on the Danger Assessment Tool, which was designed to measure a victim's risk of death in an abusive relationship.² Statistical analyses demonstrate that in cases where two or three of the enumerated APRAIS factors are present, victims are 6 times more likely to experience severe

¹ Setting all other factors aside, when an abuser has access to a firearm, a victim of intimate partner violence is five times more likely to be killed than other victims. See Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 Am. J. Public Health 1089–1097 (2003).

² Jacquelyn C. Campbell et al., *Assessing Risk Factors in Intimate Partner Homicide*, 250 National Institute of Justice Journal 14, 15 (2003).

re-assault or near lethal violence within seven months when compared to other victims of intimate partner violence.³ Similarly, in cases where four or more of these factors are present, victims are over 10 times more likely to experience severe re-assault or near lethal violence within seven months when compared to other victims of intimate partner violence.⁴ Thus, the risk factors enumerated in the proposed amendment are highly relevant to any assessment of a defendant's threat to the physical safety of the victim.

According to an analysis of FBI supplementary homicide reports between 2008 and 2012, the majority (62%) of women killed by intimate partners in Arizona were shot to death.⁵ This same data establishes that Arizona's domestic violence gun homicide rate is 45% higher than the national average.⁶ Thus, if a person seeking an order of protection in Arizona is at a high risk of experiencing lethal violence, that lethal violence is likely going to occur with a firearm. The proposed rule change addresses this causal link by allowing judicial officers to order the removal of a firearm in protective order proceedings where the APRAIS risk factors are present.

³ Intimate Partner Risk Assessment, available [here](#).

⁴ *Id.*

⁵ A Census of Domestic Violence Gun Homicides in Arizona, at 6, available [here](#).

⁶ *Id.* at 3.

III. Providing firearm transfer instructions to law enforcement will facilitate the effective removal of firearms.

If a judicial officer includes a firearm prohibition in an order of protection, it “shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order.” A.R.S. § 13-3602(G)(4). Only the “appropriate law enforcement agency” (*i.e.*, the police department or sheriff’s office with jurisdiction over the location of the defendant) can take possession of a relinquished firearm. A.R.S. § 13-3602(G)(4). That same law enforcement agency is also likely to be responsible for serving the order of protection on the defendant. *See* A.R.S. § 13-3602(J) (requiring law enforcement agency, sheriff or constable to serve order of protection if provided by the court). Providing law enforcement with relinquishment instructions and standardized forms prior to service, as contemplated by proposed Rule 23(i)(4), will facilitate the effective relinquishment of firearms at the time of service on a statewide basis, likely resulting in more effective compliance. *See* A.R.S. § 13-3602(G)(4).

IV. Whether now or in the future, the Court should also consider amending Rule 31(a).

Relatedly, although not part of the current Petition, if the proposed amendments are adopted, the Court should consider amending Rule 31(a) to ensure consistency and further the goal of compliance. Rule 31(a) currently provides that

“[a] protective order can be served only by a person authorized by Rule 4(d), Arizona Rules of Civil Procedure, A.R.S. §§ 13-3602(K), 12-1809(S), or 12-1810(S) or as otherwise provided in this rule.” These statutes collectively allow those authorized in Rule 4(d), peace officers, and correctional officers acting in their official capacity to serve orders of protection. However, as the proposed Rule 23(i)(4) recognizes, only an appropriate law enforcement agency can effectuate the transfer of a firearm at the time of service. If a defendant is served by a process server, for example, their firearm cannot be surrendered at the time of service, and it is then up to the defendant to voluntarily relinquish the firearm within 24 hours of service. *See* A.R.S. § 13-3602(G)(4).

Amending Rule 31(a) to require an order of protection containing a firearm prohibition to be served by an appropriate law enforcement agency, as described in A.R.S. § 13-3602(G)(4), would further ensure that the Rules operate effectively on the whole. It would likely increase compliance with orders containing a firearm prohibition and guarantee that defendants prepared to comply with such orders have an opportunity to relinquish their firearm at the time of service. This would further facilitate the effective and efficient implementation of the law, including Rule 23(i) and A.R.S. § 13-3602(G)(4).

Conclusion

As Arizona's Chief Law Enforcement Officer, the Attorney General has a vested interest in protecting victims of intimate partner violence. The proposed amendments protect victims and their families by expanding a judicial officer's credible-threat analysis to include evidence-based criteria that more reliably identify risk, and by facilitating the effective and efficient removal of firearms from those defendants who pose a danger.

Respectfully submitted this 1st day of May 2026.

By: /s/ Emma H. Mark

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