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9 **IN THE SUPREME COURT**
10 **STATE OF ARIZONA**

11 In the Matter of:

12 **PETITION TO AMEND RULE 7.3**
13 **OF THE RULES OF CRIMINAL**
14 **PROCEDURE**

Supreme Court No. R-17-0030

COMMENT OF
15 **THE ARIZONA PROSECUTING**
16 **ATTORNEYS' ADVISORY**
17 **COUNCIL**

18 The Arizona Voice for Crime Victims, Maricopa County Attorney's Office,
19 and Office of the Attorney General join in asking the Supreme Court to amend the
20 new version of Ariz. R. Crim. P. 7.3(b), adopted on December 14, 2016 and effective
21 April 3, 2017. (See R-16-0041). The effect of that new rule is to make *discretionary*,
22 as a condition of release, a prohibition on a defendant's contact with the crime
23 victim. Petitioners herein are requesting that this prohibition be moved to Rule
24 7.3(a) where it would become a *mandatory* condition of release, unless the court
25 determines that the victim's safety would be otherwise protected. The Arizona
Prosecuting Attorneys' Advisory Council ("APAAC") has considered the proposed
change in the petition and fully supports it.

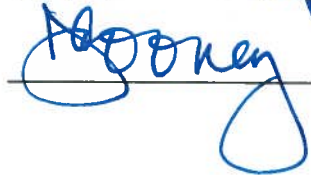
1 The new subsection 7.3(b) creates a new category of discretionary conditions
2 of release, and allows the court to impose both non-monetary and monetary
3 conditions. It also requires the court to consider the results of an approved risk
4 assessment, if any. While the new rule provides that a court “may” impose as a
5 condition of release that the defendant not contact the victim, this discretionary
6 condition does not fully protect crime victims. The court may have insufficient
7 information concerning a risk posed by a defendant to a victim. The court could be
8 misled by a defendant, a defendant’s family, or even a victim, depending on the
9 circumstances, concerning lethality and danger to the victim.
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12 A victim’s safety and protection should be paramount in considering
13 conditions of release. APAAC agrees with petitioners that making a victim’s safety
14 and protection a “discretionary” consideration weakens protections for victims.
15 Victims in Arizona have a constitutional right “to be free from intimidation,
16 harassment, or abuse” throughout the criminal process. Ariz. Const. art. 2, § 2.1.
17 Requiring a defendant to not contact the victim, as a mandatory condition of release,
18 fulfills that constitutional right and works to protect the lives and safety of victims.
19 The Arizona Prosecuting Attorneys’ Advisory Council urges this Court to support
20 the proposal in R-17-0030 and make protections of victims a priority in setting
21 conditions of release.
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1 RESPECTFULLY SUBMITTED this 24th day of April, 2017.
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4 
5 Elizabeth Ortiz, #012838
6 Executive Director
7 Arizona Prosecuting Attorneys'
8 Advisory Council

8 Electronic copy filed with the
9 Clerk of the Arizona Supreme Court
10 this 24 day of April, 2017.

11 by: 
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