

Rosemarie Peña-Lynch
Bar No 023400
Mcpa. Cnty. Ofc. of Public Defense Svc.
620 W. Jackson, Suite 3076
Phoenix, AZ 85003
(602) 506-7228
Rosemarie.Pena-Lynch@maricopa.gov

Gary Kula
Bar No. 012507
Mcpa. Cnty. Public Defenders Ofc.
620 W. Jackson, Suite 4015
Phoenix, AZ 85003
(602) 506-7711
Gary.Kula@maricopa.gov

Steve Koestner
Bar No. 011566
Mcpa. Cnty. Ofc. of Legal Advocate
222 N. Central, Suite 154
Phoenix, AZ 85004
(602) 506-4111
Steve.Koestner@maricopa.gov

Shannon Burns
Bar No. 015976
Mcpa. Cnty. Ofc. of Public Advocate
106 E. Baseline Rd.
Mesa, AZ 85210
(602) 372-2815
Shannon.Burns@maricopa.gov

Sherri McGuire Lawson
Bar No. 013605
Mcpa. Cnty. Ofc. of Legal Defender
222 N. Central, Suite 8100
Phoenix, AZ 85004
(602) 506-8800
Sherri.Mcguire@maricopa.gov

ARIZONA SUPREME COURT

In the Matter of:

Petition to Add Rule 12.10 and Amend
Rules 12.7, 12.21 and 12.25 of the Rules of
Criminal Procedure

Supreme Court No. R-25-0034

Joint Comment by the Directors of the Maricopa
County Indigent Defense Agencies

The Maricopa County indigent representation offices (IR) collectively handle most cases filed in Maricopa County in which there has been a finding of indigency. The Office of Public Defense Services (OPDS) provides administrative and financial oversight to the staffed offices and the Office of Contract Counsel (OCC). The staffed offices are comprised of the Office of the Public Defender (OPD), the Office of the Legal Advocate (OLA), the Office of the Legal Defender (OLD), and the Office of the Public Advocate (OPA). We jointly submit this comment in

opposition to the Petition as submitted; however, IR discussed its position with the Petitioners and believes proposed amendments may address those concerns.

Restricting access to grand jurors' names significantly impacts a defendant's rights to challenge the probable cause determination that resulted in their indictment. The grand jury proceedings may be challenged pursuant to Arizona Rules of Criminal Procedure 12.8 and Rule 12.9. Redaction of the jurors' names significantly interferes with a defendant's rights for several reasons. First, it hinders the ability to defend our clients and ensure grand jury presentations are free from conflict and indictments are obtained by a properly seated panel of grand jurors. In smaller counties, personal conflicts amongst the parties and the attorneys may occur with more frequency and it may be that much more critical that the names of the seated jurors are available. Second, redaction impedes defense attorneys' investigation into the jurors, which is more frequently done in complex cases, to ensure a defendant's due process rights were not violated. For example, when a juror denies viewing media coverage of a case, but their online footprint shows otherwise.

Last, filing a motion for the names in addition to a motion to obtain the transcript creates a more cumbersome process and an additional strain on resources for the requesting party, as well as court and clerk staff involved in filing, preparing, and providing transcripts.

Productive discussions occurred between the IR offices and the petitioner since the petition was filed, and the IR offices are under the impression that petitioner plans to modify the language of Rule 12.7(d) to include: "Notwithstanding the above, the list of grand jurors' names and assigned grand juror numbers will be made available to the State and the defendant upon a request for the transcript of the grand jury proceedings made pursuant to Rule 12(c)." The amended language provides the defense with access to the grand juror's names along with the transcript

which is essentially the current posture of the rule. Although we believe the best option is to mirror the language of ARS §21-312, the modification makes it possible for the defense to continue to obtain the juror's names as a matter of course.

The petitioner may also amend language to shift from "initials" to numbers as the identifier for jurors. Should a process be adopted to mirror a numbering process similar to that of the process for jury selection in the trial process, it will be critical to ensure the parties similarly receive the document used to make clear which number corresponds to which juror by name. This is especially important as the defense reviews questions from the jurors, the potential for conflicts, as well as issues with the quorum required by A.R.S. 21-414.

For the reasons stated above, the directors of the indigent defense agencies of Maricopa County oppose the petition to amend Rules 12.7(d) of the Rules of Criminal Procedure in its original form.

Respectfully submitted this day of April 30, 2025.

By /s/ Rosemarie Peña-Lynch
Rosemarie Peña-Lynch, Director
Mcpa. Cnty. Ofc. of Public Defense Svc.

By /s/ Gary Kula
Gary Kula, Director
Mcpa. Cnty. Public Defenders Ofc.

By /s/ Steve Koestner
Steve Koestner, Director
Mcpa. Cnty. Ofc. of Legal Advocate

By /s/ Shannon Burns
Shannon Burns, Director
Mcpa. Cnty. Ofc. of Public Advocate

By /s/ Sherri McGuire Lawson
Sherri McGuire Lawson, Director
Mcpa. Cnty. Ofc. of Legal Defender