

1 Honorable Jennifer E. Green  
2 Presiding Judge, Criminal Department  
3 Superior Court of Arizona in Maricopa County  
4 175 West Madison Street  
5 Phoenix, AZ 85003  
6 (602) 506-0438

7 **IN THE SUPREME COURT**  
8 **STATE OF ARIZONA**

9 In the Matter of:

} Supreme Court No. R—25-0034

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11 } PETITION TO ADD RULE 12.10  
12 } AND AMEND RULES 12.7, 12.21,  
13 } AND 12.25 OF THE RULES OF  
CRIMINAL PROCEDURE

} **PETITIONER’S REPLY TO**  
COMMENTS

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15 Pursuant to Rule 28 of the Rules of the Supreme Court, the Criminal  
16 Department of the Superior Court of Arizona in Maricopa County respectfully  
17 replies to comments to its petition to the Court to add Rule of Criminal Procedure  
18 12.10 and to modify Rules of Criminal Procedure 12.7, 12.21 and 12.25.  
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20 **Proposed Rule of Criminal Procedure 12.7(d)**

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22 Our petition proposed changes to Criminal Rule 12.7, “Record of  
23 Grand Jury Proceedings,” to further ensure the confidentiality of the identities of  
24 grand jurors in light of recent incidents that had occurred in which grand juror  
25 identities were made public. Specifically, our petition would add a new paragraph  
26 “(d)” to the Rule that would prohibit grand juror names from appearing in grand  
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1 jury transcripts. As originally proposed, our rule change would instead require the  
2 use of initials to identify grand jurors.

3 Both the Arizona Attorney General's Office and the Arizona Prosecuting  
4 Attorneys' Advisory Council have filed comments in support of the rule change.  
5 However, the Arizona Attorneys for Criminal Justice ("AACJ")—an organization  
6 that advocates for the rights of criminal defendants and for criminal defense  
7 attorneys—along with the Directors of the Maricopa County Indigent Defense  
8 Agencies, have filed comments expressing concern that the proposed language of  
9 Rule 12.7(d) may hinder the ability to raise challenges to grand jurors or grand  
10 jury proceedings under Rules 12.8 or 12.9 of the Arizona Rules of Criminal  
11 Procedure. These concerns include the potential delay in a defendant's or defense  
12 counsel's ability to obtain the list of grand jurors who returned an indictment in a  
13 given case, due to the added requirement of filing a motion to access the identities.  
14 Additionally, the use of initials in the transcript may cause confusion, particularly  
15 in cases where multiple grand jurors share the same initials. (It is important to  
16 note that both sets of comments affirm the significance of safeguarding the  
17 identities of grand jurors from public disclosure.)  
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25 Representatives of the Superior Court in Maricopa County met with  
26 representatives from the Maricopa County Indigent Defense Agencies to discuss  
27 concerns over the proposed Rule 12.7(d). The parties agreed to two suggestions:  
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1 first, to identify grand jurors in grand jury transcripts using assigned juror  
2 numbers; and second, to make available to the State and defense counsel a list  
3 correlating grand juror names with their assigned numbers upon a request for the  
4 grand jury transcript pursuant to Rule 12(c). The proposed amended language can  
5 be found at Attachment "A" to this reply.  
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### 7 **Rule of Criminal Procedure 12.10 and 12.25**

9 The AACJ, in their comment, has also expressed concern that the language  
10 in the proposed Rule 12.10(b) and the amended language to Rule 12.25(b) could  
11 be read to restrict a defendant's ability to access grand jury evidence and/or take  
12 possession of grand jury evidence preserved and held by the clerk of the superior  
13 court. There are circumstances in which defense counsel must take possession of  
14 grand jury evidence for purposes such as scientific testing or other legitimate uses.  
15 We acknowledge this need and interpret Rules 12.10(b) and 12.25(b) as applying  
16 not only to property owners, but also to any party with a lawful right to obtain  
17 custody of physical evidence, including defense counsel. The purpose of the  
18 proposed amendment is simply to make sure that the court is involved when  
19 evidence is removed from the custody of the Clerk's Office to ensure that this  
20 evidence is preserved. While we maintain our support for the original language  
21 proposed for Rules 12.10 and 12.25, we do not object to the inclusion of  
22 additional language clarifying that property owners may take possession of  
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1 evidence only after the defendant has been afforded a fair and reasonable  
2 opportunity to inspect it.

3 RESPECTFULLY SUBMITTED this 2nd day of June, 2025.  
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7 Hon. Jennifer E. Green  
8 Presiding Judge  
9 Criminal Department

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12 Electronic copy filed with  
13 the Clerk of the Arizona Supreme Court  
14 this 2nd day of June, 2025.  
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ATTACHMENT "A"

(removed language is ~~struck through~~, new language is underlined,  
PROPOSED AMENDED LANGUAGE IS CAPITALIZED IN RED)

Rules of Criminal Procedure

Rule 12.7. Record of Grand Jury Proceedings

(a) through (c) [no changes]

**(d) Grand Juror Names.** The full names of grand jurors must not be set forth in grand jury transcripts. Grand jury transcripts may provide only the grand jurors' initialsASSIGNED GRAND JUROR NUMBER. The superior court clerk must maintain a list of grand jurors' names AND ASSIGNED GRAND JUROR NUMBER, but that list must be sealed, and can only be viewed by a judicial officer or by employees of the clerk's office as needed to carry out superior court clerk business. The list of grand jurors' names in state and county grand jury presentations may only be obtained by filing a motion with the court stating the grounds for disclosure and obtaining a court order. In determining whether to grant or deny the motion, the court must consider privacy and safety concerns of the grand jurors.

**Rule 12.10. Preservation of Grand Jury Evidence**

**(a) Transmittal.** The foreperson must transmit all physical evidence, including records, presented to or considered by the grand jury to the superior court clerk. The clerk must preserve the evidence and make it available for inspection and viewing by the state, the court, and the defendant.

**(b) Release or Retention.** Nothing in this rule is intended to abrogate the right of a person under applicable law to possess or regain custody of physical evidence, but the court must impose limitations on access, use, transport, care, and disposal as necessary to ensure that the evidence is preserved.

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2 **Rule 12.21. Applicability of Other Provisions of Rule 12**  
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4 The provisions of Rule 12 pertaining to grand juries also apply to state  
5 grand juries, except that Rule 12.22(a) ["Summons"] applies instead of Rule  
6 12.1(a); Rule 12.22(d) ["Examination"] applies instead of Rule 12.1(b); Rule  
7 12.25 ["Preservation of State Grand Jury Evidence"] applies instead of Rule  
8 12.10; and Rule 12.28 ["challenge to State Grand Jury Proceedings"] applies  
9 instead of Rule 12.8.  
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11 **Rule 12.25. Preservation of State Grand Jury Evidence**  
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13 **(a) Transmittal.** The foreperson must transmit all physical evidence, including  
14 records, presented to or considered by a state grand jury to the superior court clerk  
15 of the county in which the assignment judge is serving where the state grand jury  
16 has been empaneled. The clerk must preserve the evidence and make it available  
17 in the same manner as a transcript of grand jury proceedings for inspection and  
viewing by the state, the court, and the defendant.

18 **(b) Release or Retention.** Nothing in this rule is intended to abrogate any right of  
19 a person under applicable law to possess or regain custody of physical evidence,  
20 but ~~the assignment judge may~~ the court must impose limitations on access, use,  
21 transport, care, and disposal as ~~may be~~ necessary to ensure that the evidence is  
22 preserved.  
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