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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:

PETITION TO AMEND RULES
2.4, 3.1, 3.2, 4.1, 4.2, AND FORM
41, FORMS 2(a) AND 2(b) OF
THE RULES OF CRIMINAL
PROCEDURE

} Supreme Court No. R-25-0045

} COMMENT OF THE SUPERIOR
} COURT IN AND FOR MARICOPA
} COUNTY ON THE PETITION TO
} AMEND THE RULES OF CRIMINAL
} PROCEDURE

Maricopa County Superior Court offers the following comment pursuant to Rule 28, Arizona Rules of the Supreme Court, in support of the petition to amend various rules of the Rules of Criminal Procedure to implement the recent statutory change to A.R.S. § 13-3897 set to take effect on September 26, 2025, with additional suggested amendments. The statutory changes create a new basis for issuing search warrants prior to the filing of a complaint or the return of a grand jury indictment. Under the amended statute, courts must issue an arrest warrant if an affidavit is presented to a magistrate by law enforcement alleging a felony offense has been committed, and the magistrate determines that probable cause exists that the defendant committed the alleged offense. The amendments to the statute also change the procedure relating to where a person arrested on a warrant must be taken when the arrest occurs in the county where the warrant was issued. In the current petition, the proposed amendments to the Rules seek to clarify procedures regarding these “probable cause” arrest warrants.¹ We suggest

¹ In this comment we will refer to these arrest warrants as “probable cause” arrest warrants. They might also be referred to as “A.R.S. § 13-3897 arrest warrants”, or “Rule 2.4(c) arrest warrants.”

additional amendments to the Rules of Criminal Procedure in order to ensure clear, consistent procedures for the issuance and execution of these warrants.

I. The Rules of Criminal Procedure should establish a time limit as to when a probable cause warrant expires.

In addition to the amendments described in the petition, we request this Court consider adding a rule establishing a specific timeframe in which a probable cause arrest warrant will expire, ideally no later than 90 days from issuance. The inclusion of such a deadline would help prevent indefinite or stale warrants from remaining active in the system, encourage prompt service and adjudication, and protect against unnecessary infringement on individual liberty.

There is precedent in the Rules of Criminal Procedure for establishing timelines where the underlying statutes are silent. For example, the arrest statutes in Title 13 (A.R.S. § 13-3897, -3898) require an arrested person to be brought before a magistrate without mandating a specific timeframe. However, Rule of Criminal Procedure 4.1(b) requires that a person arrested be brought before a magistrate for an initial appearance within 24 hours, and Rule 4.1(c) mandates that a complaint must be filed within 48 hours for a person arrested without a warrant or the person must be released. Likewise, while the amended A.R.S. § 13-3897 will impose duties on officers after an arrest with a probable cause warrant, it will not include any timeframe for how long such a warrant remains valid after it is issued by a magistrate. The Court could, through a procedural amendment to Criminal Rule 3.1 or 3.2, establish such a timeframe—ideally no later than 90 days—thereby aligning the treatment of warrant-based arrests with the same principles of prompt judicial oversight and timely prosecution that Rule 4.1 embodies. This will ensure that the probable cause established to justify the issuance of the warrant does not become stale. It also prevents warrants that are never executed from remaining in the system indefinitely, as there will be little incentive for law enforcement to take any action to return to a magistrate and quash an unexecuted probable cause arrest warrant.

II. The Rules of Criminal Procedure should establish that unexecuted probable cause arrest warrants are maintained outside the public record.

The rules should require that any arrest warrant issued under this authority be maintained by the issuing court outside of the public record until such time as the warrant is executed and the certificate of execution is returned to the court. This would protect the integrity of ongoing investigations, reduce the risk of flight or obstruction by the subject of the warrant, and safeguard reputational interests of individuals not yet apprehended. Once the warrant is executed and properly documented, it should then become part of the public record in accordance with standard court practices. In effect, this would be consistent with A.R.S. § 13-3918, the statute governing search warrants, which establishes the common practice that search warrant records are maintained outside of the public record until such time as law enforcement delivers the return and inventory to the issuing magistrate.

III. The Rules of Criminal Procedure should require that a copy of the certificate of execution of a probable cause arrest warrant be returned to the issuing magistrate.

We also propose that the Rules of Criminal Procedure be amended to expressly require that a certificate of execution for a probable cause arrest warrant—or at a minimum a copy thereof—be returned to the magistrate who issued the warrant. This would mirror the requirement already in place for search warrants under Rule 2.6(g)(1), which ensures that the issuing court retains a complete and accurate record of the warrant and its execution. Establishing a similar process for arrest warrants would promote consistency, safeguard accountability, and maintain the integrity of the judicial record by confirming that the warrant was executed and returned. Such a rule would provide clarity to law enforcement and courts alike, and would ensure that critical information is preserved in the same way as search warrant returns. Delivery of a certificate of execution could be made by facsimile, electronic means, in a manner permitted by the court, or in person.

IV. The Rules of Criminal Procedure should adopt a new, separate form for probable cause arrest warrants rather than amending Form 2(a).

Form 2(a) currently serves as the required form for courts issuing felony arrest warrants. The petition proposes amending that form so that it can accommodate both traditional warrants and the new probable cause arrest warrants authorized under A.R.S. § 13-3897. However, we believe it would be more efficient and appropriate to establish a separate form—"Form 2(c)"—that is tailored specifically to probable cause arrests. The circumstances of these warrants differ meaningfully from felony warrants. For example, Form 2(a) includes a space for a criminal case number at the top of the form, but probable cause arrest warrants are issued before a case has been filed, making that field inapplicable. A separate form would avoid unnecessary confusion and better reflect the procedural realities of probable cause arrests. We have attached a proposed Form 2(c) to this comment at Attachment "A."

RESPECTFULLY SUBMITTED this 25th day of August, 2025.

A handwritten signature in black ink, appearing to read "Dennis D. Carpenter, Jr.", written over a horizontal line.

Dennis D. Carpenter, Jr.
General Counsel
Superior Court of Arizona in and for
Maricopa County

Electronic copy filed with
Clerk of the Arizona Supreme Court
this 25th day of August, 2025.

ATTACHMENT "A" Proposed Form 2(c)

SUBJECT PERSON (First, MI, Last): Address: 	COURT PROBABLE CAUSE ARREST WARRANT NO.: [] DV [check if applicable] Fingerprint instruction upon arrest: [] 01 criminal history [check if required]	County, Arizona For Court Use
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TO: ANY AUTHORIZED LAW ENFORCEMENT OFFICER

YOU ARE COMMANDED to arrest and bring the above-named subject of this warrant before the nearest or most accessible magistrate in the county in which the arrest occurs or the county in which the alleged offense(s) was/were committed.

PROBABLE CAUSE HAS BEEN FOUND that the subject committed the following felony offense(s):

Offense Date	Statute/Rule & Literal Description	Felony Class
_____	_____	_____

IT IS ORDERED that the subject shall NOT be released on bail or own recognizance without having an initial appearance before a magistrate in accordance with applicable rules of procedure.

IT IS ORDERED that this warrant shall be void if not executed within 90 calendar days after issuance.

For purposes of the initial appearance, the issuing magistrate recommends bail be set as a *(check one)*

☐ secured appearance ☐ unsecured appearance ☐ deposit or ☐ cash bond in the amount of \$ _____,

Explanation (if any) re: recommendation: _____,

or ☐ makes no recommendation as to the setting of bail.

☐ Yes ☐ No ☐ Unknown The offense is, or is materially related to, a victims' rights applicable offense.

BY ORDER OF: The Honorable _____, Judge of _____ Court.
[If signed by Deputy Clerk of Court]

Date		Printed name of the Judge or Deputy Clerk of Court:				
SEX:	RACE:	DOB:	HGT:	WGT:	EYES:	HAIR:
ADDRESS: [TYPE:]						
COURT ORI:			WARRANT #: *		LE AGENCY: [Arresting Agency]	
CITATION #: *			EXTRADITION #: *		PURGE DATE: 90 Days	
DL #: *			STATE: *		SSN (LAST 4):	
VIN:			YEAR:	MAKE:	MODEL:	STYLE:
DR # *						

[* optional information can vary by court and may include the last four digits of the subject's SSN]

CERTIFICATE OF EXECUTION

I certify that the above-named subject was arrested at _____ a.m./p.m. on _____, 20____,
and presented the subject before Judge _____ at _____.

Date	Agency
	Deputy Sheriff / Officer Badge #