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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,	)	Supreme Court No. 25-0045
3.2, 4.1, 4.2, AND 41, FORMS 2(a) AND	)	
(b) OF THE RULES OF CRIMINAL	)	REPLY
PROCEDURE	)	
_____	)	

David K. Byers, Administrative Director, Administrative Office of the Courts (AOC), and Petitioner in this matter, hereby replies pursuant to this Court’s Order dated October 2, 2025.

I. Procedural History

On July 18, 2025, Petitioner filed Rule Petition R-25-0045 (“Initial Petition”) to amend Rules 2.4, 3.1, 3.2, 4.1, 4.2, and 41 (Forms 2(a) and 2(b)) of the Rules of Criminal Procedure to implement Senate Bill (SB) 1232, which creates a new basis for issuing an initial arrest warrant for the alleged commission of a felony offense. Petitioner requested expedited consideration and emergency adoption of the proposed rule amendments.

On July 21, 2025, this Court granted Petitioner’s request for expedited consideration at its August 2025 Rules Agenda and opened the comment period until October 1, 2025. At its August 2025 Rules Agenda, this Court adopted several amendments on an emergency basis, effective September 26, 2025.

After Petitioner filed the Initial Petition, the AOC formed a workgroup to examine and make recommendations for additional procedures necessary to implement SB 1232. Accordingly, Petitioner filed an Amended Petition and Request to Extend Comment and Reply Period (“Amended Petition”) on October 1, 2025, to incorporate the workgroup’s recommendations in the proposed rule amendments.

The proposed rule amendments in the Amended Petition differ substantially from those proposed in the Initial Petition. This Court therefore extended the comment period to October 23, 2025, with any Reply due by October 30, 2025. This Court further ordered that during its November 2025 Rules Agenda, the Court will consider whether to adopt on an emergency basis the proposed rule amendments set forth in the Amended Petition. If it does, the Court will reopen the public comment period and consider whether to adopt the proposed rule amendments on a permanent basis during its August 2026 Rules Agenda.

The Initial Petition received one comment, and the Amended Petition received one comment. Petitioner files this Reply to address the comments received.

II. Discussion of Comments

A. Initial Petition

The Initial Petition received one comment filed on behalf of the Superior Court in and for Maricopa County. The comment makes four suggestions:

(1) Establish a time limit as to when a pre-charge warrant expires. This Court adopted this suggestion in its August 28, 2025 Order, and Petitioner's Amended Petition incorporates this suggestion by way of proposed Criminal Rule 2.7(j).

(2) Establish that unexecuted probable cause arrest warrants are maintained outside the public record. Petitioner's Amended Petition incorporates this suggestion by way of the proposed amendment to Supreme Court Rule 123(d).

(3) Require that a copy of the certificate of execution of a probable cause arrest warrant be returned to the issuing magistrate. Petitioner's Amended Petition incorporates this suggestion by way of proposed Criminal Rule 2.7(k) but requires return to the issuing court rather than the issuing magistrate.

(4) Adopt a new, separate form for probable cause arrest warrants rather than amending Form 2(a). Petitioner's Amended Petition incorporates this suggestion by way of proposed Form 2(c).

B. Amended Petition

The Amended Petition received one comment filed on behalf of the Superior Court in and for Maricopa County (“Commentor”). Commentor indicates support of the amended petition and the proposed amendments therein, but suggests an additional amendment to Criminal Rule 4.1(b) to require that for arrests made on a warrant issued pursuant to A.R.S. § 13-3897(A), the arresting officer provide the magistrate conducting the initial appearance with an executed copy of the arrest warrant and a copy of the affidavit in support of the warrant “to ensure that magistrates have before them the foundational materials supporting the arrest during the initial appearance.”

Petitioner understands that having the documentation relating to an A.R.S. § 13-3897(A) warrant that formed the basis for the defendant’s arrest may be helpful to the magistrate conducting the initial appearance. Petitioner therefore supports the suggestion but proposes an alternative for incorporating it into the proposed rule amendments as follows:

First, proposed Criminal Rule 2.7(c) states, “A court may require the affidavit be submitted to the court when filing Rule 41, Form 4(a).” Petitioner recommends striking this language from proposed Criminal Rule 2.7(c), relocating it to Criminal Rule 4.1(b), and adding “if available.” This will eliminate conflicting language between proposed Criminal Rule 2.7(c) and Commentor’s suggested revision to Criminal Rule 4.1(b), while maintaining the purpose of Commentor’s proposal. This

change to proposed Criminal Rule 2.7(c) as it was proposed in the Amended Petition is reflected below, with deletions shown in red strikethrough. Appendix A to this Reply reflects proposed Rule 2.7(c) as Petitioner is proposing it be adopted, if this Court is inclined to relocate the stricken text to Criminal Rule 4.1(b).

(c) Affidavit Under A.R.S. § 13-3897(A). A person presenting an affidavit under A.R.S. § 13-3897(A) must use Form 2(d) or a substantially equivalent form. The person may sign the affidavit using an electronic signature.
~~A court may require the affidavit be submitted to the court when filing Rule 41, Form 4(a).~~

Second, there may be instances in which the arresting officer does not have a physical copy of the warrant to provide to the magistrate conducting the initial appearance. For example, if the person is arrested by an agency or officer other than the agency or officer that requested and obtained the warrant, the arresting officer may not have a physical copy of the warrant. If this Court is inclined to amend Criminal Rule 4.1(b) to require documentation that puts the initial appearance magistrate on notice that the person was arrested pursuant to an A.R.S. § 13-3897(A) warrant, Petitioner suggests additionally adding a provision to account for scenarios where the arresting officer may not have a physical copy of the warrant, by including language to alternatively require that an indication be made on Form 4(a) if the person was arrested on an A.R.S. § 13-3897(A) warrant and a copy of the warrant is not available to the arresting officer to provide to the magistrate conducting the initial appearance.

If this Court is inclined to adopt the additional amendments to Criminal Rule 4.1(b), Petitioner also recommends that Criminal Rule 4.1(b) be broken into three subparts, because the first two will be applicable to all arrests falling within the purview of Criminal Rule 4.1(b) and the third will be specifically applicable to the documentation and information required for arrests made on an A.R.S. § 13-3897(A) warrant.

The additional proposed amendments to Criminal Rule 4.1(b) are reflected in Appendix A to this Reply and as follows (additional proposed new text shown in underline and in red; proposed amendments carried over from the Amended Petition are shown in underline, but remain in black):

(b) On Arrest Without a Warrant or an Arrest With a Warrant Issued Under A.R.S. § 13-3897(A).

(1) *Where Person Must Be Taken.* A person arrested without a warrant or arrested with a warrant issued under A.R.S. § 13-3897(A) must be taken before the nearest or most accessible magistrate either in the county of arrest or in the county where the offense was committed.

(2) *Complaint.* A complaint, if not already filed, must be promptly prepared and filed. If a complaint is not filed within 48 hours after the initial appearance before the magistrate, the arrested person must be immediately released from custody and any pending preliminary hearing dates must be vacated.

(3) *Warrant and Affidavit for Persons Arrested on a Warrant Issued Under A.R.S. § 13-3897(A).* If a person is arrested on a warrant issued under A.R.S. § 13-3897(A), the arresting officer must submit to the court a copy of the warrant, if available, when filing Rule 41, Form 4(a). If a copy of the warrant is not available, the arresting officer must indicate on Form 4(a) that the person was arrested

pursuant to a warrant issued under A.R.S. § 13-3897(A).
A court may require the affidavit, if available, be
submitted to the court when filing Rule 41, Form 4(a).

Petitioner believes that the additional amendments as proposed herein and as set forth in Appendix A to this Reply effectively implement Commentor's suggestions, while allowing flexibility when the circumstances require.

III. Request

Petitioner appreciates the comments submitted during the comment periods. If this Court is inclined to incorporate Commentor's suggestions relating to Criminal Rule 4.1(b), Petitioner respectfully requests that this Court do so by adopting the amendments as set forth in Appendix A to this Reply.

To that end, proposed Criminal Rule 2.7(c) as set forth in Appendix A to this Reply is intended to replace proposed Criminal Rule 2.7(c) as set forth in the Amended Petition. Similarly, Criminal Rule 4.1(b) as shown in Appendix A to this Reply is intended to replace the proposed version of Criminal Rule 4.1(b) as set forth in the Amended Petition.

Respectfully submitted this 30th day of October, 2025.

By /s/ David K. Byers
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Appendix A

Rules of Criminal Procedure

(New language is underlined)

Rule 2.7. Pre-Charge Arrest Warrants (A.R.S. § 13-3897(A))

(c) Affidavit Under A.R.S. § 13-3897(A). A person presenting an affidavit under A.R.S. § 13-3897(A) must use Form 2(d) or a substantially equivalent form. The person may sign the affidavit using an electronic signature.

Rule 4.1. Procedure upon Arrest

(b) On Arrest Without a Warrant or an Arrest With a Warrant Issued Under A.R.S. § 13-3897(A).

(1) Where Person Must Be Taken. A person arrested without a warrant or arrested with a warrant issued under A.R.S. § 13-3897(A) must be taken before the nearest or most accessible magistrate either in the county of arrest or in the county where the offense was committed.

(2) Complaint. A complaint, if not already filed, must be promptly prepared and filed. If a complaint is not filed within 48 hours after the initial appearance before the magistrate, the arrested person must be immediately released from custody and any pending preliminary hearing dates must be vacated.

(3) Warrant and Affidavit for Persons Arrested on a Warrant Issued Under A.R.S. § 13-3897(A). If a person is arrested on a warrant issued under A.R.S. § 13-3897(A), the arresting officer must submit to the court a copy of the warrant, if available, when filing Rule 41, Form 4(a). If a copy of the warrant is not available, the arresting officer must indicate on Form 4(a) that the person was arrested pursuant to a warrant issued under A.R.S. § 13-3897(A). A court may require the affidavit, if available, be submitted to the court when filing Rule 41, Form 4(a).