

**ARIZONA SUPREME COURT**

STATE OF ARIZONA,

Appellee

v.

FRANK JARVIS ATWOOD,

Appellant.

No. CR–87–0135–AP

Pima County Superior Court  
Nos. CR14065 and CR15397

Ninth Circuit No. 14–99002

U.S. District Court No. CV–98–116–  
TUC–JCC

REPLY IN SUPPORT OF MOTION TO  
SET BRIEFING SCHEDULE FOR  
MOTION FOR WARRANT OF  
EXECUTION

(Capital Case)

Defendant Frank Jarvis Atwood was convicted in 1987 for the 1984 kidnapping and murder of 8-year-old VLH. Motion, Exh. A, at 2. Over the next 30 years, Atwood pursued his appeals in state and federal court, with his federal habeas litigation finally concluding in 2017, rendering him eligible for execution. *Id.* at 2–3. The State has now asked this Court to set a briefing schedule on its anticipated motion for warrant of execution. In response, Atwood barrages this Court with unconvincing and irrelevant arguments while offering no convincing reason why a simple briefing schedule should not issue. This Court should accordingly reject Atwood’s arguments and grant the State’s motion.

**A. The State is not required to select inmates for execution in any particular order.**

Atwood first complains that the State has “leapfrogged [him] to the front” of a line that he believes exists for seeking warrants of execution, and he asserts that the State should be required to select inmates for execution in the order in which they complete their federal habeas proceedings. Response at 4. But even if Atwood is correct that the past practice has been to seek warrants for inmates in the order in which they complete their federal litigation, the State is not required to adhere to such a procedure. Atwood committed his crimes in 1984 and was sentenced to death in 1987. He does not dispute that he has completed his of-right appeals. Nor does he present a compelling reason why the State should not seek a warrant at this time. The State is not prohibited from seeking Atwood’s execution merely because Atwood was successful in dragging out his federal proceeding for more than 20 years.

The State is also not required to provide a “legal rationale” for seeking a warrant for Atwood’s execution, other than demonstrating that the legal requirements for a warrant have been met.<sup>1</sup> *See id.* at 6. And while Atwood complains that the State believes “the selection of condemned men for execution is entirely [its] prerogative,” he does not identify any law establishing that the State

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<sup>1</sup> Atwood does not dispute that these requirements have been met.

lacks this discretion. *Id.* Were this Court to deny the State’s motion to set a briefing schedule based on a belief that other inmates should be executed before Atwood, it would infringe on this exercise of discretion and violate separation of powers. *See* A.R.S. § 13–759(A) (“The supreme court shall grant subsequent warrants of execution on a motion by the state.”); *see State v. Wagstaff*, 164 Ariz. 485, 489 (1990) (holding that “executive agencies bear full responsibility for executing the judgment and sentence”).

**B. Correspondence between the Attorney General and the Pima County Attorney is irrelevant to the State’s motion.**

Atwood next addresses correspondence between the Pima County Attorney, Laura Conover, and the Arizona Attorney General. *See* Response, at 6–7. In an April 6, 2021, letter, Conover asked the Attorney General to impose a “temporary hold on any death warrants from Pima [County] cases” so that her office may “undertake a review to be certain we haven’t overlooked anything.” Resp. Exh. 3. Atwood’s response to the State’s motion confirms that he is working with the Pima County Attorney to intervene for the purpose of avoiding imposition of his lawfully-imposed sentence. *See* Response, at 6–8. Effectively, Atwood seeks to select counsel for the State based on his belief that County Attorney Conover will offer a more sympathetic ear than the Attorney General to his legally meritless arguments against execution.

Atwood invokes the ethical rules to justify his intrusion into the State’s

representation, asserting that the County Attorney Conover must “inquire into the new, credible, and material evidence” of his innocence. *Id.* at 8 (citing ER 3.8(g)(2)). To be sure, ER 3.8(g) imposes certain duties “[w]hen a prosecutor knows of new, credible, and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted.” However, Atwood does not explain what “new, credible, and material” evidence exists in his case. If he possessed any such evidence, he would presumably have already presented it in a successive Rule 32 proceeding or, at a minimum, given it to undersigned counsel. And if County Attorney Conover is aware of the evidence, she should submit it to the Attorney General—who has been the State’s counsel of record for decades—for review.

Atwood also cites ER 3.8(h), which requires a prosecutor to “take appropriate steps ... to set aside the conviction” when the prosecutor “knows of clear and convincing evidence establishing that a defendant ... was convicted of an offense that the defendant did not commit.” *See* Response at 8. Atwood contends that the Attorney General “refuses to fulfill this duty.” *Id.* But as stated above, Atwood has not identified, nor is the Attorney General’s Office aware of, any “new, credible, and material evidence,” let alone “clear and convincing evidence,”

establishing that Atwood did not kill VLH.<sup>2</sup>

Finally, “[t]he Rules [of Professional Conduct] are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies.... [T]he purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons.” Ariz. R. Sup. Ct. 42, Preamble ¶ 20. By inappropriately invoking ER 3.8 here, Atwood is attempting not only to subvert the Rules of Professional Conduct, but also to weaponize these Rules to avoid his lawfully imposed sentence.

**C. The State’s motion does not seek to limit this Court’s review of Atwood’s pending claims.**

Atwood incorrectly asserts that the State “repudiated a stipulation” that would have allowed him “time to investigate his innocence.” Response at 8–9. The State made no such stipulation. *See* State’s Response to Petition for Review, No. CR–20–0298–PR, at 5–6. The State merely agreed during the most recent post-conviction relief proceeding that Atwood could continue investigating guilt-

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<sup>2</sup> Atwood disputes that the Arizona Attorney General, not the Pima County Attorney, prosecuted him. *See* Response at 7. Atwood’s convictions and sentences were obtained by an Assistant Attorney General. *See* Resp. Exh. 5, at 2–3. Although the prosecutor was cross-deputized by the Pima County Attorney, Atwood’s own exhibits show that he appeared as an Assistant Attorney General. *Id.* But even giving the cross-deputization the weight Atwood believes it is entitled, the convictions and death sentence here reflect an interagency effort that cannot be unilaterally undone by County Attorney Conover. And regardless which office prosecuted Atwood, the Attorney General’s office has exclusively represented the State in this matter since Atwood’s conviction.

related claims while the State responded to Atwood’s sentencing-related ones and that he could seek to amend his then-pending petition with any claims he found. *Id.* at 13. Atwood did not timely move to amend his petition, and only sought a stay of the proceeding after the petition had already been dismissed. *Id.* at 12.

Nor does the State’s motion seek to “truncate” this Court’s consideration of Atwood’s claims “related to his actual innocence and innocence of the death penalty.” Response at 9. First, neither of the pending petitions for review raise actual-innocence claims. Second, the State noted the petitions’ pendency in its motion and announced its intent to ask the Court to consolidate those matters with the anticipated warrant request if they are not resolved before the warrant motion is filed.<sup>3</sup> Motion at 1 n.1. Therefore, the State did not ask this Court to “disregard ... Atwood’s substantial pending claims” by seeking a briefing schedule on the motion for a warrant for his execution but, rather, asked this Court to consider the petitions. Response at 10.

Atwood next complains that the State’s motion “ignores” that he has not been able to meet in person with his defense team “for well over a year” because of the pandemic. *Id.* at 9. But he does not explain why this fact is relevant to the State’s motion. Likewise, the record does not support his claim that his counsel

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<sup>3</sup> This Court has since placed the petitions on the agenda for its May 4, 2021, conference.

were only “ready to begin [their post-conviction] investigation” at “a time that coincided with the pandemic-induced shutdown.” *Id.* at 10. Counsel were appointed in June 2019 to litigate Atwood’s third petition for post-conviction relief. *See id.* at 9. They filed the petition on January 13, 2020—before the pandemic was an issue—and the court dismissed the petition in June 2020. *See State’s Response to Petition for Review, No. CR–20–0298–PR, at 6.* Thus, Atwood’s claim that his counsel were only “ready to begin investigation” around the time the pandemic imposed limitations is unconvincing.

Finally, to the extent Atwood asserts that his counsel are currently investigating a claim that he is actually innocent of VLH’s murder, he has had more than 30 years to present such a claim in both state and federal court.<sup>4</sup> Thus, the State is not “hostil[e] to meaningful examination of Mr. Atwood’s conviction and sentence.” *Id.* at 10. Rather, that examination has already taken place. Atwood is not entitled to avoid execution by endlessly and repetitiously searching—so far without success—for evidence showing his innocence.

**D. The State’s motion seeks an efficient and fair warrant process.**

As explained in the motion, the State intends to execute Atwood using compounded pentobarbital. Motion at 2. Once the pentobarbital is compounded, it

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<sup>4</sup> Atwood summarily states that his current counsel are “his first unconflicted counsel since the case left state court.” Response at 9. He does not explain this statement or how his federal habeas counsel were conflicted.

will have a 90-day shelf life, and the State cannot use it beyond that time period under the protocol. Motion Exh. C, at 2. Because the drug must be compounded shortly after the State files its warrant motion in order to provide mandatory testing results to Atwood’s counsel within 10 days, the State merely asks this Court to set a briefing schedule before the warrant motion is filed so that the briefing does not extend the execution date beyond the 90-day shelf life of the drug. *Id.* Contrary to Atwood’s claim, the State has not suggested that an “emergency” exists here. Response at 10.

Atwood appears to argue that, if the compounded drug expires, the State could simply compound a new dose for his execution. *Id.* at 11. But this would prevent the State from complying with the letter of the lethal-injection protocol, which requires disclosure of testing results on the chemical to be used within 10 days of moving for a warrant. He does not explain how this procedure would be more orderly than that requested in the State’s motion. Along the same lines, the State does not ask to “trade orderly process for haste”; it seeks to *ensure* an orderly process by establishing filing dates for the warrant motion, response, and reply. *Id.* This procedure would avoid unnecessary delay in the time between the briefing and this Court’s consideration of the warrant motion, promoting efficiency and

minimizing the last-minute crisis litigation attendant to execution warrants.<sup>5</sup>

Atwood next criticizes the State's attempt to comply with the lethal-injection protocol and related federal-court settlement. *See id.* He asserts that the "artificial 90-day timetable" is "attributable to the State's discretionary actions" and complains about the State's intent to comply with the protocol as the settlement requires.<sup>6</sup> *Id.* Atwood apparently believes that he should not be bound by the settlement agreement because he was not a party to it. *Id.* at 12. But the protocol protects all inmates without regard to whether they were parties to the lawsuit, and the settlement permits any death-row inmate to substitute as a party and enforce the judgment. Motion Exh. C, at 2.

The State's motion also does not seek "abandonment" of the procedural rules in place or to "decree a new procedural rule." Response at 12–13. Rather, it merely asks this Court to set a briefing schedule for the State's warrant motion. Thus, Atwood's discussion of this Court's rulemaking powers is irrelevant. *See id.*

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<sup>5</sup> Atwood also asserts, based solely on a news article, that the drugs were "illegally obtained, questionably sourced, and chemically specious." Response, at 11. Although his allegations are inaccurate, Atwood is free to raise them in an appropriate forum. They are, however, irrelevant to the State's pending motion.

<sup>6</sup> The State's procurement of the execution drugs does not result from a "lack of foresight" as Atwood claims. Response at 11. It is a reality based on anti-capital-punishment efforts to block states from obtaining drugs for executions. *See Glossip v. Gross*, 576 U.S. 863, 870 (2015) (observing that "anti-death-penalty advocates pressured pharmaceutical companies to refuse to supply the drugs used to carry out death sentences").

at 13–14. The State’s motion seeks nothing that this Court’s rules do not permit. Arizona Rule of Criminal Procedure 31.3(e) provides that, “[f]or good cause and after considering the rights of the victim, an appellate court may shorten or extend the time for doing any act required by Rule 31, a court order, or an applicable statute.” And Rule 31.3(a) permits this Court to suspend any provision of Rule 31, and to “order such proceedings as the court directs.”

And far from requiring an “expedited schedule,” the State’s proposed procedure likely gives Atwood more time to prepare a response to the State’s warrant motion than he would have had if the State had filed the motion without prior notice of its intent to do so. Response at 14. As explained in the Motion, Atwood can begin drafting his Response, and any anticipated litigation, now, before this Court has even considered the State’s briefing-schedule motion, let alone granted it and set deadlines for litigating the warrant. This is true even if the Court grants the State’s request for a 1-day response time.<sup>7</sup>

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<sup>7</sup> Atwood complains that the State “presupposes that counsel are able to devote themselves fully to preparing a response to the warrant motion, ignoring the tidal wave of activity surrounding late-stage capital litigation.” Response at 14, n.33. Atwood does not explain how he would be better able to respond to a warrant motion with only the 10 days allowed by this Court’s Rules. Nor does he explain why a response to a warrant motion would be onerous, given the narrow issues before the Court in such a motion. *See* Motion at 5 (explaining that the issue in the warrant motion will be whether Atwood’s first post-conviction proceeding and habeas appellate review have concluded, which Atwood does not dispute). If

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Finally, Atwood argues that the State’s motion to set a briefing schedule “violates separation of powers” by “introduc[ing] a new rule through litigation.” *Id.* at 15. The instant motion, however, addresses only Atwood’s case and does not seek a new rule for future warrant motions. Because the State lacks authority to establish new rules, and its motion to set a briefing schedule does not do so, Atwood’s argument that the motion violates separation of powers is easily dismissed. *Id.* at 15–16.

**E. The warrant statute is not unconstitutional.**

Atwood next challenges the State’s assessment that, once the State establishes that Atwood has exhausted his of-right appeals, this Court lacks discretion to deny its warrant motion. Response at 16–20; *see* Motion at 5. But A.R.S. § 13–759(A) (which states that this Court “shall” grant an execution warrant after the first post-conviction proceeding concludes and “shall” grant subsequent warrants at the State’s request), speaks for itself and contains mandatory language. So does Rule 31.23(b).

Atwood, however, believes that the statute is not mandatory and that this Court possesses unlimited discretion to deny a warrant. But contrary to his position, this Court has historically regarded its duty to issue execution warrants as

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anything, Atwood has had an additional opportunity to challenge the issuance of a death warrant through his response to the State’s motion to set a briefing schedule.

mandatory. For many years, this Court automatically issued warrants at the conclusion of the first Rule 32 proceeding; those warrants were promptly stayed by federal courts when defendants initiated federal habeas proceedings. *See* Exhibit A (Petition to Amend Rule 31.17(c)(1)). Because federal stays were granted in virtually every case, this Court adopted Rule 31.23(a), which eliminated the automatic post-Rule 32 warrant unless the State files a notice that the that a defendant has not commenced his federal habeas proceeding within 15 days of the Rule 32's termination. *Id.*; *see also* Exhibit B (order amending Rule 31.17(c)) This Court also added Rule 31.23(b), which states that a warrant “must” issue on the State’s motion once federal habeas proceedings have concluded. Exhibit B.

Atwood, however, argues that, if the statute is mandatory, there is no need for the defendant to respond to a warrant motion. Response at 16–17. But a response allows a defendant the opportunity to dispute that his first Rule 32 and his federal habeas have concluded—the prerequisites to issuing a warrant under the statute and rule.

Atwood also argues that the State’s reading of the statute “is at odds with past warrant practice,” pointing to the State’s observation that past warrant litigation has spanned months. *Id.* at 17 (citing Motion at 3 n.3). But Atwood does not explain how this prolonged litigation shows that A.R.S. § 13–759(A) does not impose a mandatory duty on this Court, and he identifies no actual inconsistencies

resulting from the mandatory nature of the statute. And as discussed above, this Court for years issued execution warrants automatically, reflecting its recognition of its mandatory duty.

Third, Atwood maintains that construing the statutory use of “shall” as mandatory would violate separation of powers. To the contrary, however, construing “shall” as permissive would grant unlimited discretion to the judiciary to determine whether the executive branch may carry out a lawfully-imposed sentence on a particular defendant. This arrangement would intrude on the executive’s powers and responsibilities, which includes the responsibility for carrying out criminal sentences. *See Wagstaff*, 164 Ariz. at 488–89. Through § 13–759(A), the legislature has directed this Court to verify that an inmate’s guaranteed appellate process has concluded before authorizing the executive to carry out an execution. If this Court verifies that it has, the legislature has directed this Court to issue the warrant.<sup>8</sup> *See* A.R.S. § 13–759(A). Put simply, the

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<sup>8</sup> Atwood further argues that an execution warrant is “analogous” to the mandamus power conferred on this Court by the Arizona Constitution. Response at 18. But in filing a warrant motion, the State does not “seek[] to compel a public official to perform a non-discretionary duty imposed by law,” as a mandamus action does. *Stagecoach Trails MHC, LLC v. City of Benson*, 231 Ariz. 366, 370, ¶ 19 (2013). Rather, the motion asks the Court to *authorize* an execution pursuant to clearly delineated statutory requirements. *See* Motion, Exhibit A; A.R.S. § 13–759(A). A warrant motion is also not presented through the special action procedure, as a mandamus action is. *See Fairness and Accountability in Ins. Reform v. Greene*, 180 Ariz. 582, 584 n.1 (1994) (“In Arizona, special action relief is the modern

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legislature has given this Court a limited, gatekeeper role in carrying out what is ordinarily an executive function.

This arrangement does not “encroach[] on the judicial power.” Response at 19. As explained above, the statute and rule require the warrant to issue only if certain prerequisites are met. Atwood will be given the opportunity to establish that those prerequisites have not been met, should he choose to do so. This Court will resolve any dispute on that matter, and its determination whether the statutory and procedural elements are met will not be “mechanical[]” or a “rubber stamp” as Atwood contends. *Id.* This procedure does not “render this Court subservient to the Attorney General.” *Id.* It carries out the intent of the legislature by requiring this Court to authorize the executive to carry out an execution once the designated appellate process has concluded.<sup>9</sup>

The State has discretion to determine for which eligible inmates it will seek death warrants; this Court’s duty is to ensure that the selected inmates are, in fact,

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equivalent of common law writs such as mandamus and prohibition.”). Moreover, even if the warrant procedure were “analogous” to a mandamus action, Atwood does not explain how that renders the mandatory language in the warrant statute unconstitutional. *See* Response at 19.

<sup>9</sup> Atwood argues that this Court has violated the separation of powers doctrine by promulgating Rule 31.23(b). Response at 20 n.37. But the State has established above that no separation of powers problem arises from requiring this Court to issue the warrant upon a showing that certain requirements have been met. Rule 31.23(b) merely implements the procedure for issuing an execution warrant.

eligible to be executed before the death warrant is issued and to set the execution date. Contrary to Atwood's claim, this procedure takes no power away from the judiciary. Further, other than asking this Court to "save the statute" by eliminating its mandatory language (and thereby intrude on the legislature's authority to enact laws), Atwood offers no interpretation of the statute that would in any manner guide or limit the "directory" nature of the statute. *Id.* at 20. Any rule that vests unbridled discretion in this Court to deny a death warrant for an inmate who is eligible to be executed would invade on the executive's duty to carry out lawfully-imposed sentences.

**F. The COVID-19 pandemic does not render the State's proposed briefing schedule unconstitutional.**

Atwood finally asserts that the State's proposed briefing schedule is unconstitutional because the COVID-19 pandemic has caused "myriad disruptions." Response at 20. Specifically, he complains that the Arizona Department of Corrections, Rehabilitation and Re-Entry (ADCRR) prohibits his visitations with counsel, impeding his ability to "consult with counsel regarding innocence investigation, warrant litigation, clemency, and any other subject." *Id.* at 21. The ADCRR, however, has authorized since the response's filing limited in-person legal visits for death row inmates, including for Atwood.

Further, even while the prison remained closed to in-person visitations, ADCRR permitted telephonic and video-conference meetings between inmates and

approved visitors. *See* Exhibit C, at 8. Atwood and his counsel therefore could have been conducting for the past year telephonic or video legal visits on a weekly basis. Going forward, Atwood may meet in person with his counsel.

Atwood further asserts that it is “unsafe to schedule executions while COVID-19 remains a threat to the community.” Response at 21. As authority, he cites an article concluding that federal executions conducted at the height of the pandemic, and before vaccines were widely available, were “superspreader” events. *Id.* n.40. Atwood also notes that the complex where he is housed has reported more than 2,000 cases of the virus over the lifetime of the pandemic. But he fails to recognize that, as of April 23, 2021, ADCRR has vaccinated more than 25,000 inmates, and that (unlike at the time of the federal executions) vaccines are now available to all American adults. *See* <https://corrections.az.gov/covid-19-management-updates>. ADCRR will continue to take precautions to avoid the spread of COVID-19 while fulfilling its duty to carry out lawfully-imposed sentences.

DATED this 27th day of April, 2021.

Respectfully submitted,

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(Firm State Bar No. 14000)

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# Exhibit A

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IN THE SUPREME COURT OF ARIZONA

In the Matter of	)	
	)	Arizona Supreme Court No. _____
THE ARIZONA RULES	)	
OF CRIMINAL PROCEDURE	)	PETITION TO AMEND RULE 31.17(c)(1),
	)	ARIZONA RULES OF CRIMINAL
	)	PROCEDURE
_____	)	

**PETITION TO AMEND THE ARIZONA RULES OF CRIMINAL PROCEDURE**

Pursuant to Rule 28, Rules of the Supreme Court, the Arizona Supreme Court Staff Attorneys' Office petitions the Court to amend the Arizona Rules of Criminal Procedure, as reflected in the attachment hereto.

**I. BACKGROUND**

Arizona Revised Statutes § 13-759(A) provides:

A. After a conviction and sentence of death are affirmed and the first post-conviction relief proceedings have concluded, the supreme court shall issue a warrant of execution that authorizes the director of the state department of corrections to carry out the execution thirty-five days after the supreme court's mandate or order denying review or upon motion by the state. The supreme court shall grant subsequent warrants of execution on a motion by the state. The time for execution shall be fixed for thirty-five days after the state's motion is granted.

Rule 31.17(c)(1) and (2), Ariz. R. Crim. P., provides:

(1) *Initial Execution Warrant.* After a conviction and sentence of death are affirmed and the first post-conviction relief proceeding pursuant to Rule 32.4(a) has concluded by the denial of a petition for review filed pursuant to Rule 32.9(c) or, if no petition for review has been filed, upon the filing of a notice by the state that the time for filing such petition has expired,

the Supreme Court shall fix a twenty-four hour time period for execution of the sentence and shall issue a warrant of execution.

(2) *Subsequent Execution Warrant.* In the event the warrant is stayed by any court beyond the time period fixed for the execution of sentence, the Supreme Court shall issue subsequent warrants of execution upon motion by the state.

Pursuant to the statute and rule, if the superior court denies the first Rule 32 petition for post-conviction relief in a capital case and the Arizona Supreme Court denies review, the Court issues a warrant of execution. The Court's practice is to issue the warrant on the same date that it denies the petition for review. The Clerk of the Supreme Court sends a certified copy of the warrant to the Director of the Arizona Department of Corrections and the Warden of the Arizona State Prison at Florence, and sends e-mail copies to numerous other persons and agencies including counsel, superior court judges and staff, federal district court judges and staff, clerks of the superior court and federal courts, victims' representatives, the governor's general counsel and the Arizona Board of Executive Clemency. In addition, the Clerk of the Supreme Court gives notification by telephone calls to many of those persons and agencies.

Within a few days, the inmate under sentence of death ("petitioner") will initiate a habeas corpus proceeding in the United States District Court for the District of Arizona.<sup>1</sup> The District Court will then immediately issue an order staying the warrant of execution and directing its clerk to make telephone calls notifying the Director of the Arizona Department of Corrections, the Attorney General of the State of Arizona, the Clerk of the Arizona Supreme Court, and the Warden of the Arizona State Prison at Florence. The District Court also orders the United States Marshal to serve those individuals with a copy of the stay order, and a copy is sent to the petitioner. Shortly

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<sup>1</sup> Typically, the petitioner will file in the District Court a Motion to Stay Execution, a Motion for Appointment of Counsel, an Application to Proceed In Forma Pauperis, and a Statement of Intent stating his or her intent to file an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

thereafter, the District Court issues another order appointing habeas corpus counsel and scheduling a case management conference.

**II. PROPOSED AMENDMENT TO RULE 31.17(c)(1), ARIZ. R. CRIM. P.**

The first sentence of A.R.S. § 13-759(A) states: "After a conviction and sentence of death are affirmed and the first post-conviction relief proceedings have concluded, the supreme court shall issue a warrant of execution that authorizes the director of the state department of corrections to carry out the execution thirty-five days after the supreme court's mandate or order denying review *or upon motion by the state.*" (Emphasis added.) The proposed amendment would avoid the unnecessary issuance of a warrant of execution for those petitioners who promptly initiate habeas corpus proceedings in the federal district court. In light of the significant administrative costs associated with issuance of execution warrants, this will conserve judicial resources in both the state and federal courts. Therefore, the undersigned Staff Attorney respectfully requests that the Court adopt the proposed amendment as reflected in the attachment hereto.

DATED this \_\_\_\_ day of December, 2013.

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Donna M. Hallam  
Staff Attorney, Arizona Supreme Court

ATTACHMENT<sup>2</sup>

ARIZONA RULES OF CRIMINAL PROCEDURE

**Rule 31.17. Disposition and ancillary orders**

**a. - b.** [No change in text.]

**c. Fixing the Date of Execution After a Death Sentence Is Affirmed.**

(1) *Initial Execution Warrant.* ~~After a conviction and sentence of death are affirmed and the first post-conviction relief proceeding pursuant to Rule 32.4(a) has concluded by the denial of a petition for review filed pursuant to Rule 32.9(c) or, if no petition for review has been filed, upon the filing of a notice by the state that the time for filing such petition has expired, the Supreme Court shall fix a twenty four hour time period for execution of the sentence and shall issue a warrant of execution. Following affirmance of a sentence of death, and if the superior court denies the first Rule 32 petition for post-conviction relief and the Supreme Court denies the petition for review, the Supreme Court shall issue a warrant of execution upon the filing of a notice by the state that the defendant has not initiated habeas corpus proceedings in federal district court within fifteen days after review is denied. If no Rule 32 petition for post-conviction relief or petition for review is filed, the Supreme Court shall issue a warrant of execution upon the filing of a notice by the state that the time for filing such petition has expired.~~

(2) *Subsequent Execution Warrant.* ~~In the event the warrant is stayed by any court beyond the time period fixed for the execution of sentence, the~~ The Supreme Court shall issue subsequent warrants of execution upon motion by the state.

(3) *Date and Time of Execution.* [No change in text.]

(4) *Return on Warrant.* [No change in text.]

**d. - e.** [No change in text.]

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<sup>2</sup> Additions in text are indicated by underscoring and deletions from text are indicated by strikeouts.

# Exhibit B

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-13-0050  
RULE 31.17(c)(1), RULES OF )  
CRIMINAL PROCEDURE ) FILED 9/2/2014  
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 )  
\_\_\_\_\_ )

**ORDER**

**AMENDING RULE 31.17(c)(1), ARIZONA RULES OF CRIMINAL PROCEDURE**

A petition having been filed proposing to amend Rule 31.17(c)(1), Arizona Rules of Criminal Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 31.17(c)(1), Arizona Rules of Criminal Procedure, be amended in accordance with the attachment hereto, effective January 1, 2015.

DATED this 2<sup>nd</sup> day of September, 2014.

\_\_\_\_\_  
SCOTT BALES  
Chief Justice

Arizona Supreme Court No. R-13-0050  
Page 2 of 3

TO:  
Rule 28 Distribution  
SACRDOCS  
John A Furlong  
Jeffrey A Zick  
John Pressley Todd  
Ronald S Reinstein

## ATTACHMENT\*

### Rule 31.17. Disposition and ancillary orders

a. - b. [No change in text.]

#### **c. Fixing the Date of Execution After a Death Sentence Is Affirmed. Warrant of Execution.**

~~(1) *Initial Execution Warrant.* After a conviction and sentence of death are affirmed and the first post-conviction relief proceeding pursuant to Rule 32.4(a) has concluded by the denial of a petition for review filed pursuant to Rule 32.9(c) or, if no petition for review has been filed, upon the filing of a notice by the state that the time for filing such petition has expired, the Supreme Court shall fix a twenty-four hour time period for execution of the sentence and shall issue a warrant of execution.~~

~~(2) *Subsequent Execution Warrant.* In the event the warrant is stayed by any court beyond the time period fixed for the execution of sentence, the Supreme Court shall issue subsequent warrants of execution upon motion by the state.~~

(1) *Issuance of Warrant.* After affirmance of a death sentence, the Supreme Court shall issue a warrant of execution upon the filing of a notice by the state that:

(a) no first Rule 32 petition for post-conviction relief has been filed and the time for filing the petition has expired; or

(b) no petition for review has been filed after the superior court denied the first Rule 32 petition for post-conviction relief and the time for filing the petition for review has expired; or

(c) the defendant has not initiated habeas corpus proceedings in federal district court within fifteen days after the Supreme Court denied the petition for review of the denial of the first Rule 32 petition for post-conviction relief.

(2) *Post-Habeas Warrant.* After the conclusion of federal habeas corpus proceedings and habeas appellate review, the Supreme Court shall issue a warrant of execution upon motion by the state.

(3) *Date and Time of Execution.* [No change in text.]

(4) *Return on Warrant.* [No change in text.]

d. - e. [No change in text.]

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\* Additions to text are shown by underscoring; deletions by ~~strikeouts~~.

# Exhibit C



Arizona Department  
of Corrections  
Rehabilitation & Reentry

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# COVID-19 Management Updates

April 16, 2021

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### ADCRR Has Administered More Than 18,000 Vaccines to Inmates

**(PHOENIX)** —The Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) continues to offer COVID-19 vaccines to inmates at its state as well as private prison facilities. The Department has received 19,980 doses thus far from the Arizona Department of Health Services (ADHS) and has administered 13,903 vaccines at our ten state prison complexes to date. Additionally, the private prisons have administered 4,233 vaccines. We will continue to offer the vaccines as they are allocated to the Department and will continue to provide weekly updates on the total number of vaccines administered.

COVID-19 data continues to be updated on ADCRR's dashboard at: <https://corrections.az.gov/adcr-covid-19-dashboard> ([//corrections.az.gov/adcr-covid-19-dashboard](https://corrections.az.gov/adcr-covid-19-dashboard)). Please note the data on the dashboard is cumulative back to February 2020. For the latest regarding ADCRR's COVID-19 management strategy, please visit: <https://corrections.az.gov/covid-19-management-updates> ([//corrections.az.gov/covid-19-management-updates](https://corrections.az.gov/covid-19-management-updates)).

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April 9, 2021

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### ADCRR Has Administered More Than 12,000 Vaccines to Inmates

**(PHOENIX)** - The Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) continues to offer COVID-19 vaccines to inmates at its state as well as private prison facilities. The Department has received 11,690 doses thus far from the Arizona Department of Health Services (ADHS) and has administered 10,091 vaccines at our ten state prison complexes to date. Additionally, the private prisons have administered 1,964 vaccines. We will continue to offer the vaccines as they are allocated to the Department and will continue to provide weekly updates on the total number of vaccines administered.

COVID-19 data continues to be updated on ADCRR's dashboard at: <https://corrections.az.gov/adcr-covid-19-dashboard> ([//corrections.az.gov/adcr-covid-19-dashboard](https://corrections.az.gov/adcr-covid-19-dashboard)). Please note the data on the dashboard is cumulative back to February 2020. For the latest regarding ADCRR's COVID-19 management strategy, please visit: <https://corrections.az.gov/covid-19-management-updates> ([//corrections.az.gov/covid-19-management-updates](https://corrections.az.gov/covid-19-management-updates)).

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April 2, 2021

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### ADCRR Inmates Have Received Over 6,800 Vaccines

**(PHOENIX)** - The Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) continues to offer COVID-19 vaccines to inmates at its state as well as private prison facilities. The Department has received 6,540 doses thus far from the Arizona Department of Health Services (ADHS) and has administered 5,499 vaccines to date. Additionally, the private prisons have administered 1,361 vaccines. We will continue to offer the vaccines as they are allocated to the Department and will provide weekly updates on the total number of vaccines administered.

COVID-19 data continues to be updated on ADCRR's dashboard at: <https://corrections.az.gov/adcr-covid-19-dashboard> ([//corrections.az.gov/adcr-covid-19-dashboard](https://corrections.az.gov/adcr-covid-19-dashboard)). Please note the data on the dashboard is cumulative back to February 2020. For the latest regarding ADCRR's COVID-19 management strategy, please visit: <https://corrections.az.gov/covid-19-management-updates> ([//corrections.az.gov/covid-19-management-updates](https://corrections.az.gov/covid-19-management-updates)).

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March 26, 2021

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Inmate Vaccines Update

**(PHOENIX)**—The Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) is offering COVID-19 vaccines to inmates at its 10 state complexes as well as private prison facilities. The Department has received 3,940 doses thus far from the Arizona Department of Health Services (ADHS) and has administered 3,337 total vaccines to date. Additionally, the private prisons have administered 1,034 vaccines to date. Currently, ADCRR has an inmate population of 36,768. We will continue to offer the vaccines as they are allocated to the Department and will be providing weekly updates on the total number of vaccines administered.

“We are grateful for the support of Governor Doug Ducey and our ongoing collaboration with ADHS Director, Dr. Cara Christ, in offering our inmate population the vaccine, especially those who are at higher risk for severe outcomes from COVID-19,” said ADCRR Director David Shinn. “ADCRR continues to work closely with ADHS to ensure that inmates interested in receiving the vaccine are given the opportunity to do so. It is another significant step towards keeping inmates, correctional employees and our communities safe.”

COVID-19 data continues to be updated on ADCRR’s dashboard at: <https://corrections.az.gov/adcr-covid-19-dashboard> ([//corrections.az.gov/adcr-covid-19-dashboard](https://corrections.az.gov/adcr-covid-19-dashboard)). Please note the data on the dashboard is cumulative back to February 2020. For the latest regarding ADCRR’s COVID-19 management strategy, please visit: <https://corrections.az.gov/covid-19-management-updates> ([//corrections.az.gov/covid-19-management-updates](https://corrections.az.gov/covid-19-management-updates)).

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January 15, 2021

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Management Strategy Update

**(PHOENIX)** — COVID-19 vaccinations are underway at ASPC-Perryville for correctional officers who are part of the 1B protective services personnel group. The officers began receiving the Moderna COVID-19 Vaccination on a voluntary basis early this morning. Next Monday, vaccinations will also begin at ASPC-Perryville for Centurion healthcare workers who are part of the 1A frontline healthcare group. Centurion is the health care provider for the ADCRR inmate population. Many Centurion healthcare providers serving ADCRR complexes have already received vaccines through state

run POD locations, with some having completed the two-dose series. ADCRR Correctional Officers are also eligible to receive the vaccine through the POD locations that are available in each Arizona county, such as the 24/7 vaccine POD located at State Farm Stadium in Glendale.

As ADCRR facilities acquire additional vaccines, distribution will begin for correctional officers (1B) and healthcare workers (1A) at other complexes. ADCRR has also formulated a comprehensive distribution plan in close collaboration with ADHS for the vaccination of inmates, starting with individuals based on age or medical conditions most at risk for complications if infected by COVID-19. The anticipated administering of vaccines to our vulnerable inmate population is dependent on the number of vaccines received, and locations where they are received. Receiving the vaccine is voluntary.

In another proactive step against COVID-19, on Tuesday, January 19, ADCRR will begin offering a second round of widespread PCR testing to its nearly 38,000 inmates. The testing, in collaboration with the Arizona Department of Health Services, will take place at all 10 complexes as well as ADCRR's private prison facilities. Last August, ADCRR became one of only a handful of state correctional agencies in the nation to mass test their entire inmate population and continues to remain in this category with a second round of mass testing.

The broad testing allows the department to identify asymptomatic spread and then isolate and group inmates as needed to mitigate COVID-19 spread in its facilities. Each test is then recorded in the individual inmate's medical record. More than 85,000 inmate tests have been conducted across our state and contract prison facilities since COVID-19 emerged last year.

Since the beginning of the pandemic, the Department has been in compliance with CDC and ADHS guidelines in taking broad-steps to mitigate the risk and impact of COVID-19 in all of our facilities. Keeping our staff, inmates and communities safe continues to be our top priority.

COVID-19 data continues to be updated on ADCRR's dashboard at <https://corrections.az.gov/adcr-covid-19-dashboard> ([//corrections.az.gov/adcr-covid-19-dashboard](https://corrections.az.gov/adcr-covid-19-dashboard)). Please note the data on the dashboard is cumulative back to February. For the latest regarding ADCRR's COVID-19 management strategy, please also visit: <https://corrections.az.gov/covid-19-management-updates> ([//corrections.az.gov/covid-19-management-updates](https://corrections.az.gov/covid-19-management-updates)).

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December 28, 2020

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Management Strategy Update

**(PHOENIX)**—The Arizona Department of Corrections, Rehabilitation and Reentry will soon begin a second round of COVID-19 testing for nearly 38,000 inmates and will make available 4,000 rapid virus tests for staff.

“Since March, more than 85,000 inmate tests have been conducted across our state and contract prison facilities,” said David Shinn, Director of ADCRR. “The health of our inmates and staff is a top priority and we continue to take proactive steps to mitigate the spread of the virus.”

The second round of inmate testing will begin in January in collaboration with the Arizona Department of Health Services. The rapid testing for staff will be deployed on an as needed basis.

In August 2020, ADCRR became one of only a handful of state correctional agencies in the nation to mass test their entire inmate population. Mass testing allows the department to identify asymptomatic spread and then isolate and group inmates as needed to mitigate COVID-19 spread in its facilities. Each test is then recorded in the individual inmate’s medical record.

In addition, ADCRR has obtained from ADHS, 4,000 BinaxNOW™ COVID-19 Card Rapid Antigen tests produced by Abbott. The self-contained nasal-swab tests offer results within 15 minutes through a mobile app that will securely show a positive or negative result.

The rapid testing capability will be available to staff members including health care providers for the state’s inmate population, correction officers, professional staff, and contract staff. Training for the medical staff administering the tests will take place this week and is being offered by the Arizona Army National Guard. Utilization of the rapid tests will begin after the training is complete.

“We are grateful to Governor Doug Ducey, ADHS, and the Arizona Army National Guard for their tremendous assistance in obtaining the tests and training our health care professionals who provide medical care to our inmates,” said Shinn. “Because of these valuable partnerships, we are also able to deploy the latest developments in rapid testing to our staff members so we can continue to take the appropriate steps in identifying and mitigating the spread of the virus in our facilities.”

Health care professionals for the Department’s inmate population have also completed the process of becoming certified to administer COVID-19 vaccines and are ready to administer the vaccines during the appropriate phases.

ADCRR continues to remain vigilant on all fronts with robust COVID-19 management strategies to reduce the spread of COVID-19 at its statewide facilities. PPE and cleaning supplies are in stock, used daily, distributed to the units as needed and restocked accordingly.; The Department continues to follow CDC and ADHS guidelines for correctional facilities and has done so throughout the pandemic.

COVID-19 data continues to be updated on ADCRR’s dashboard at <https://corrections.az.gov/adcr-covid-19-dashboard> ([//corrections.az.gov/adcr-covid-19-dashboard](https://corrections.az.gov/adcr-covid-19-dashboard)). Please note the data on the dashboard is cumulative back to February. For the latest regarding ADCRR’s COVID-19 management strategy, please also visit: <https://corrections.az.gov/covid-19-management-updates> ([//corrections.az.gov/covid-19-management-updates](https://corrections.az.gov/covid-19-management-updates)).

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December 23, 2020

**ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY**

## COVID-19 Management Strategy Update

**(PHOENIX)** - The Arizona Department of Corrections, Rehabilitation and Reentry is announcing the expansion of its intake capacity to address the rise in COVID-19 positive inmates being transferred from county jails.

After inmates are sentenced for their offenses, they are transferred from the custody of county jails to state prisons. COVID-19 positive inmates are kept together, separate from COVID-19 negative inmates, to help prevent transmission and keep the general population healthy. Since March, ADCRR has received more than 6,850 intakes from Arizona's 15 counties.

"With the expansion of our intake capabilities, we are able to continue to accommodate the expanding needs of our public safety partners as COVID-19 cases rise across our state," said David Shinn, ADCRR Director. "We continue to group those who test positive for the virus together upon intake, so they can receive appropriate care and medical clearance before entering into the general inmate population."

The additional intake center located at ASPC-Lewis Morey Unit will provide temporary housing for an additional 200 intakes who will be housed in a newly renovated cell environment, where they will receive services such as food delivery directly to their housing location. Each inmate housing unit at Morey includes newly configured swing doors with detention grade locks. Each unit building also includes new fire alarm systems and environmental controls (HVAC systems).

"I'm grateful to our correctional officers and professional staff that continue to define what ADCRR excellence is all about as we work to mitigate the spread of COVID-19 in our facilities," said Shinn.

Previously, on August 27, 2020, ADCRR opened a third intake center at the Rincon Unit at ASPC - Tucson, which provides temporary housing for 193 inmates.

COVID-19 data continues to be updated on ADCRR's dashboard at <https://corrections.az.gov/adcrr-covid-19-dashboard> ([//corrections.az.gov/adcrr-covid-19-dashboard](https://corrections.az.gov/adcrr-covid-19-dashboard)). Please note the data on the dashboard is cumulative back to February. For the latest regarding ADCRR's COVID-19 management strategy, please also visit: <https://corrections.az.gov/covid-19-management-updates> ([//corrections.az.gov/covid-19-management-updates](https://corrections.az.gov/covid-19-management-updates)).

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December 8, 2020

**ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY**

COVID-19 Management Strategy Update

**(PHOENIX)** - As we are seeing higher numbers of COVID-19 cases in communities across the country, we are also seeing an increase in cases within our inmate population and those arriving from counties as new admissions. In response, testing was conducted recently at ASPC – Florence Globe Unit and ASPC- Yuma La Paz Unit, with 655 of those tests at La Paz coming back as positive. The testing of the populations at these units allows ADCRR to swiftly cohort, compartmentalize, and provide medical care. The La Paz Unit currently houses a total of 1,066 inmates.

Our staff, inmates and the community's safety remains our top priority. ADCRR continues to be vigilant in implementing robust COVID-19 management strategies to reduce the spread of COVID-19 in all of its facilities. We are working closely with the Arizona Department of Health Services (ADHS). Each prison facility had an onsite survey completed by the ADHS Infection Control Assessment and Response team which continues to be available to offer assistance.

Inmates who test positive are currently being housed separately from the rest of the unit. Comprehensive inmate services, including meals, required medication, and medical services are being brought directly to their housing location. They will not be allowed back into the general population until they have been medically cleared.

La Paz Unit inmates who did not test positive for COVID-19 are also being cohorted separately and are kept away from the general inmate population at the facility. Enhanced cleaning and sanitation throughout ASPC-Yuma is occurring continuously.

- Per CDC guidance for correctional facilities, all ADCRR inmates have been provided face coverings for their use. All inmates are required to wear face coverings upon leaving their immediate living area. All prison complex staff are also required to wear cloth face coverings.
- We are also in the process of preparing for the approval and distribution of a safe and effective COVID-19 vaccine in the coming months. The health care professionals who provide medical services to the Department's inmate population are in the process of being certified to administer COVID-19 vaccines as soon as supplies become available.
- Each day, all employees entering any Arizona prison complex continue to undergo required temperature and symptom checks at each facility. All incoming admissions are tested at our intake facilities like ASPC-Phoenix, where we receive new inmate commitments from the county jails and where they are cohorted and monitored for 14 days prior to intra-system movement.
- ADCRR is one of only a handful of state correctional agencies in the country to mass test their entire inmate population. ADCRR, in collaboration with ADHS, has conducted onsite PCR testing of inmates at all of its statewide facilities, which exceeds the level of testing occurring in the community outside of our facilities.
- ADCRR continues to isolate and test inmates with flu-like symptoms and continues to re-test as needed. If necessary, inmates are transported to the hospital should they require higher levels of care.

COVID-19 data continues to be updated on ADCRR's dashboard at <https://corrections.az.gov/adcr-covid-19-dashboard> ([//corrections.az.gov/adcr-covid-19-dashboard](https://corrections.az.gov/adcr-covid-19-dashboard)). Please note the data on the dashboard is cumulative back to February. For the latest regarding ADCRR's COVID-19 management strategy, please also visit: <https://corrections.az.gov/covid-19-management-updates> ([//corrections.az.gov/covid-19-management-updates](https://corrections.az.gov/covid-19-management-updates)).

October 22, 2020

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Management Strategy Update

**(PHOENIX)** - Since the beginning of the COVID-19 pandemic, the Arizona Department of Corrections, Rehabilitation, and Reentry has taken significant actions to mitigate the risk and impacts of COVID-19 in its facilities. Keeping our staff, inmates, and communities safe continues to be our top priority.

To help protect the health of each inmate, staff member, family member, or friend inside the facility, contact visits will remain temporarily suspended during the COVID-19 pandemic until it is deemed safe to reopen the visitation process. Video visitation will continue for those inmates who have visitation privileges. Inmates continue to be eligible for one 30-minute video visit per week to allow as many inmates as possible to participate. No fees are associated with the video visitation.

In the future, when in-person visitation is allowed, we will make advance notice to the inmates, family members, and or friends.

To get the latest information about ADCRR's response to COVID-19, please visit our website, <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/))

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September 10, 2020

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Management Strategy Update

**(PHOENIX)** - The suspension of legal and non-legal visitation at all Arizona prison complexes remains in effect. We will continue to re-evaluate the suspension on a month by month basis.

Existing ADCRR policies for phone calls and written letters will remain in effect. During this period, CenturyLink will continue to provide inmates with two additional 15-minute phone calls per week, free of charge.

Video visitation will also continue for those inmates who have visitation privileges. Inmates continue to be eligible for one 30-minute video visit per week in order to allow as many inmates as possible to participate. No fees are associated with the video visitations.

Since the beginning of the COVID-19 pandemic, the Department has taken significant actions to mitigate the risk and impacts of COVID-19 in its facilities. Keeping our staff, inmates and communities safe continues to be our top priority.

COVID-19 data continues to be updated on ADCRR's dashboard at <https://corrections.az.gov/adcr-covid-19-dashboard> ([//corrections.az.gov/adcr-covid-19-dashboard](https://corrections.az.gov/adcr-covid-19-dashboard)). For the latest regarding ADCRR's COVID-19 management strategy, please visit: <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)).

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August 6, 2020

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Management Strategy Update

**(PHOENIX)** - Effective August 13, 2020, the Arizona Department of Corrections, Rehabilitation and Reentry will be further extending the suspension of legal and non-legal visitation at all Arizona prison complexes, through September 13, 2020. At that time, we will continue to re-evaluate the suspension on a month by month basis.

Existing ADCRR policies for phone calls and written letters will remain in effect. During this period, CenturyLink will continue to provide inmates with two additional 15-minute phone calls per week, free of charge.

Video visitation will also continue for those inmates who have visitation privileges. Inmates continue to be eligible for one 30-minute video visit per week in order to allow as many inmates as possible to participate. No fees are associated with the video visitations.

Since the beginning of the COVID-19 pandemic, the Department has taken significant actions to mitigate the risk and impacts of COVID-19 in its facilities. Keeping our staff, inmates and communities safe continues to be our top priority.

*To get the latest information about ADCRR's response to COVID-19, please visit our website, <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)) and @AZCorrections on Twitter*

August 4, 2020

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Management Strategy Update

**(PHOENIX)** - The Arizona Department of Corrections, Rehabilitation and Reentry continues to conduct PCR testing of the entire inmate population. Today, 517 inmates housed at the ASPC-Tucson Whetstone Unit have tested positive for COVID-19.

Those inmates who tested positive are currently being housed as a cohort together in separate areas and are receiving appropriate medical care. They will not be allowed back into the general population until they have been medically cleared. In addition to measures that are already in place, all inmates at Whetstone will receive meals and all required medication and medical services in their housing units.

Since the beginning of the COVID-19 pandemic, the Department has taken significant actions to mitigate the risk and impacts of COVID-19 in its facilities. Keeping our staff, inmates and communities safe continues to be our top priority.

Staff in those areas are equipped with full PPE that include N-95 masks, gowns, gloves, and face shields. On July 2, inmates were provided fabric face coverings for their use. All prison complex staff have been required to wear cloth face coverings since June 15, 2020.

Rigorous cleaning throughout the unit was already in place and has been heightened as a result of the test results.

The Whetstone unit currently houses 1,066 inmates.

*ADCRR continues to post daily statewide COVID-19 statistics on our website as well as the latest COVID-19 management strategy updates at: <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/))*

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July 13, 2020

## **ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY**

### **COVID-19 Management Strategy Update**

**(PHOENIX)** - Effective July 13, 2020, the Arizona Department of Corrections, Rehabilitation and Reentry will be further extending the suspension of legal and non-legal visitation at all Arizona prison complexes, through August 13, 2020. We will then continue to re-evaluate on a month by month basis thereafter.

Video visitation will continue for those inmates who have visitation privileges. Inmates are eligible for one 15-minute video visit per week in order to allow as many inmates as possible to participate. No fees are associated with the video visitations.

Existing ADCRR policies for phone calls and written letters also remain in effect. During this period, CenturyLink will also continue to provide inmates with two additional 15-minute phone calls per week, free of charge.

Our priority remains ensuring the health and safety of inmates as well as all ADCRR employees and on-site third party partners. We continue our efforts to maintain CDC guidelines and will re-evaluate the suspension in August.

ADCRR continues to post daily statewide COVID-19 statistics on its website at <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)).

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July 2, 2020

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Management Strategy Update

(PHOENIX) - As part of the Arizona Department of Corrections, Rehabilitation and Reentry measures to enhance COVID-19 prevention during the evolving pandemic, ADCRR has distributed fabric face coverings to all inmates for their use. This includes ADCRR's third-party-operated prison complexes and inmates arriving at ADCRR's intake facility in Phoenix.

All inmates are encouraged to wear the face coverings at all times while participating in activities in which social distancing is not possible. Exceptions to this include general activities such as sleeping, eating or when staff may need to positively identify an inmate.

The face coverings have been made by inmates at ADCRR's Douglas and Florence complexes through the [Arizona Correctional Industries](https://aci.az.gov/) (<https://aci.az.gov/>) (ACI) garment program, which has been in operation for more than 30 years. ACI, a division of the ADCRR, was developed more than 35 years ago to provide structured programming to create opportunities for offenders to develop marketable skills and strong work habits. ACI inmate programs allow inmates to be paid for their work.

Consistent with CDC guidance for correctional facilities and ADCRR Infectious Disease Protocols, ADCRR continues to separate any inmates who exhibit flu-like symptoms from the general population. ADCRR is also working with the Arizona Department of Health Services (ADHS) to test all inmates at each complex.

Currently, all ADCRR officers and staff are required to wear face coverings. All employees entering Arizona prison complexes continue to undergo required temperature and symptom checks at each facility. ADCRR continues to communicate with staff and inmates about how they can reduce the risk of contracting or spreading COVID-19.

*To get the latest information about ADCRR's response to COVID-19, please visit our website, <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)) and @AZCorrections on Twitter.*

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June 12, 2020

## **ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY**

### **COVID-19 Management Strategy Update**

(PHOENIX) – The Arizona Department of Corrections, Rehabilitation and Reentry today announced COVID-19 antibody (serology) testing at Arizona State Prison Complex (ASPC) Florence for employees and ADCRR contract staff. Starting Tuesday, June 16 through Thursday, June 18, COVID-19 serology testing will be initiated through an onsite testing process. As part of Governor Ducey’s work to expand COVID-19 testing across Arizona, the Department is working to prioritize serology testing for all correctional officers and employees working within a prison complex.

Sonora Quest Laboratories will be conducting the tests which will take about 5-10 minutes each. These tests will help identify those who have had exposure to the virus, and those that have developed antibodies.

“This is an exceptional opportunity for the Department to provide COVID-19 testing to our brave frontline men and women who continue to serve the public as first responders throughout the pandemic,” said David Shinn, Director of ADCRR. “I wish to thank ADHS director, Dr. Cara Christ for her continued support and guidance for the thousands of essential employees doing their job each day in our state facilities.”

ADCRR maintains a vigilant posture with rigorous ongoing symptom checks across all of its state complexes including temperature checks for everyone entering facilities. COVID-19 data continues to be updated on ADCRR’s dashboard at <https://corrections.az.gov/adccr-covid-19-dashboard> ([//corrections.az.gov/adccr-covid-19-dashboard](https://corrections.az.gov/adccr-covid-19-dashboard)). For the latest regarding ADCRR’s COVID-19 management strategy, please also visit: <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)).

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June 10, 2020

## **ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION & REENTRY**

### **COVID-19 Management Strategy Update**

(PHOENIX) –Effective June 13, 2020, the Arizona Department of Corrections, Rehabilitation and Reentry will be further extending the suspension of legal and non-legal visitation at all Arizona prison complexes for an additional 30 days, through July 13, 2020.

Video visitation was successfully implemented on May 10, 2020 and will continue for those inmates who have visitation privileges. Inmates are eligible for one 15-minute video visit per week in order to allow as many inmates as possible to participate. No fees are associated with the video visitations.

Video visitation days are Saturday through Tuesday and subject to timeslot availability.

Visitors may schedule their appointments on Thursdays and Fridays for the upcoming week.

Tablets and headsets are cleaned and sanitized between each use.

Existing ADCRR policies for phone calls and written letters also remain in effect. During this period, CenturyLink will continue to provide inmates with two additional 15-minute phone calls per week, free of charge.

Our priority remains ensuring the health and safety of inmates as well as all ADCRR employees and on-site third party partners. We continue our efforts to maintain CDC guidelines and will re-evaluate the suspension in July.

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May 28, 2020

## **ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY**

### **COVID-19 Management Strategy Update**

(PHOENIX) – The Arizona Department of Corrections, Rehabilitation and Reentry today announced enhanced COVID-19 PCR testing at Arizona State Prison Complex (ASPC) in Yuma, part of a statewide plan to provide testing to all correctional officers and prison employees. As part of Governor Ducey’s work to expand COVID-19 testing across Arizona, the Department is working to prioritize serology testing for all correctional officers in addition to this PCR program in Yuma.

Starting Tuesday through Thursday, May 28, COVID-19 PCR swab testing is taking place through an onsite mobile testing process at the Yuma complex so ADCRR’s hard working men and women do not have to travel to off-site testing locations. More than 1,200 staff members including 890 correctional officers as well as contract employees at the facility are able to participate. The testing is being conducted by the [Regional Center for Border Health, Inc \(https://www.rcfbh.org/\)](https://www.rcfbh.org/), based in Somerton, Arizona, following a partnership with the Arizona Department of Health Services (ADHS), Senator Lisa Otondo, Representative Charlene Fernandez and Representative Geraldine Peten.

“This is an exceptional bipartisan example of people coming together in service for the greater good in providing COVID-19 testing to our brave frontline men and women who continue to define public service throughout the pandemic,” said David Shinn, Director of ADCRR. “I wish to thank Sen. Otondo for reaching out regarding staff-wide testing at Yuma and also wish to thank ADHS director, Dr. Cara Christ and Representatives Fernandez and Peten along with Amanda Aguirre, President and CEO of the Regional Center for Border Health for their collaboration.”

“I’m thrilled that LD4 Democrats were able to collaborate with the Arizona Department of Corrections, Director Shinn and the Regional Center for Border Health to bring 1,000 COVID Tests to Yuma Prison. Amanda Aguirre and her staff stepped up and stepped forward to help. Words are not enough to describe how deeply grateful I am to Amanda and her staff for the life-saving work they are doing in Arizona,” said Senator Otondo.

ADCRR maintains a vigilant posture with rigorous ongoing symptom checks across all of its state complexes including temperature checks for everyone entering facilities. COVID-19 data continues to be updated on ADCRR's dashboard at <https://corrections.az.gov/adcr-covid-19-dashboard> ([//corrections.az.gov/adcr-covid-19-dashboard](https://corrections.az.gov/adcr-covid-19-dashboard)). For the latest regarding ADCRR COVID-19 management strategy, please also visit: <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)).

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May 8, 2020

**ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY**  
**COVID-19 Management Strategy Update**

(PHOENIX) –The Arizona Department of Corrections, Rehabilitation and Reentry is offering temporary video visitation beginning on Sunday, May 10, 2020, to coincide with Mother's Day. This temporary program is intended to provide an opportunity for families to remain connected during the suspension of visitation that has been extended across all complexes through June 13, 2020 due to the COVID-19 pandemic.

Video visitation will be available to approved visitors and inmates who have visitation privileges. Inmates are eligible for one 15-minute video visit per week in order to allow as many inmates as possible to participate. Initially, no fees are associated with the video visitations.

Visitors may schedule their appointments on Thursdays and Fridays for the following week. The current video visitation days are Sunday, Monday, and Tuesday, with scheduling subject to time slot availability. Each tablet, along with headsets, will be cleaned and sanitized between visits.

Families and friends participating in video visitation must have a valid email address, access to a desktop/laptop or a cell phone equipped with camera/mic, and the latest version of the Google Meet app. A meeting invitation code will be provided by the complex.

Existing phone call and written letter privileges remain in place for inmates, along with two additional 15-minute phone calls per week, provided at no charge by CenturyLink, ADCRR's phone and internet provider.

*The latest data and COVID-19 Management Strategy Updates can be found on our website at <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)).*

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May 1, 2020

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Management Strategy Update

(PHOENIX) –The Arizona Department of Corrections, Rehabilitation and Reentry has updated the information on its website dashboard related to COVID-19. The dashboard will now include additional data reflecting the number of inmate deaths attributed to COVID-19 based upon the initial clinical conclusion of physicians and subsequently, the final forensic determination of the county medical examiner as those become available.

In addition, the dashboard will now reflect the number of ADCRR staff members who have reported having tested positive for COVID-19, as well as those staff members who have been medically cleared to return to work.

ADCRR is also revising previously reported data on the number of inmates who have tested positive for COVID-19. This revision is being made in order to ensure accuracy due to a handful of inmates who were tested more than once out of an abundance of caution. Inadvertently, a handful of tests were counted more than once (multiple tests for the same person were reported initially as individual positive cases). The revised data is now posted on ADCRR's website.

The Arizona Department of Corrections, Rehabilitation & Reentry is required by statute (A.R.S. § 11-593(B)(4)) to report all inmate deaths. The county Medical Examiner is required by statute (A.R.S. § 11-594(A)(2)) to conduct a death investigation and potential autopsy of all inmate deaths. Upon completion of the death investigation and any autopsy, the county Medical Examiner is required by statute (A.R.S. § 11-594(A)(3)(5)) to certify the cause and manner of death and to promptly execute a death certificate indicating the cause and manner of death.

*The latest data and COVID-19 Strategic Management Updates can be found on our website at <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)).*

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April 10, 2020

## ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY

### COVID-19 Management Strategy Update

(Phoenix)—Effective today, the Arizona Department of Corrections, Rehabilitation and Reentry is posting the latest COVID19 statistics on our website. The dashboard will provide statistics for statewide Arizona Prison Complexes and can be found at <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)). It will be updated daily.

The ADCRR will also continue to provide the latest updates related to our response to the COVID-19 pandemic on our website and on social media.

*Get the latest information about ADCRR's response to COVID-19 by visiting our website, <https://corrections.az.gov/> ([//corrections.az.gov/](https://corrections.az.gov/)), and @AZCorrections on Twitter.*

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