

GILA RIVER INDIAN COMMUNITY COURT

Bench Warrant Clearance Initiative Procedures

A. Purpose.

A person with a pending criminal case (defendant) has the responsibility to appear at all court hearings. If a defendant fails to appear for any reason, the judge may issue a bench warrant for the defendant's arrest. A bench warrant will remain in effect until the defendant is arrested or the court cancels (quashes) the bench warrant. The Bench Warrant Clearance Initiative (initiative) will allow a defendant to appear in court to quash a bench warrant without the threat of arrest. By quashing the bench warrant, the criminal justice system can continue to process the defendant's criminal case(s) and allow the defendant to remain free to continue the defendant's employment or education and care for the defendant's children and family.

B. Eligible Warrants.

1. A bench warrant can be issued when the defendant was given proper notice, i.e., served and fails to appear for any court appearance. Bench warrants are generally issued upon request of the prosecutor or upon the court's own motion.
2. An arrest warrant can be issued by the court upon request of the prosecutor in lieu of a summons when a criminal complaint or petition to revoke probation is filed under Gila River Indian Community Rule of Criminal Procedure Rule 3.1(c).
3. ONLY bench warrants issued by this jurisdiction are eligible for clearance under this initiative.
4. A defendant may contact the court or Defense Services Office to determine if they have a warrant and whether they have a bench warrant or an arrest warrant.
 - a. If the defendant has both a bench and arrest warrant, the defendant is not eligible to clear their bench warrant.
5. A defendant's participation in this initiative is voluntary.
6. Paying a bond amount does not clear a warrant, the defendant must appear before a judge.

C. Beginning the Clearance Procedure.

1. The clearance initiative is available at both the Sacaton Court and Westend Court.
 - a. The Sacaton Court will address requests to clear bench warrants each business day during the 1:30 PM arraignment docket.
 - b. The Westend Court will address requests to clear bench warrants on select days during the 9:00 AM criminal docket.
2. A defendant shall complete a Bench Warrant Clearance Form (form).
 - a. The form shall list the following information:
 - i. Defendant's full name.
 - ii. Defendant's date of birth.
 - iii. Defendant's case number(s).
 - iv. Defendant's mailing and physical addresses.
 - v. Defendant's telephone number(s).
 - vi. Defendant's email address, if available.

- vii. A defendant shall indicate if the defendant will appear at the Sacaton or Westend Court.
 - viii. A defendant shall date and sign the form.
 - b. The clerk of the court will not accept incomplete forms. The clerk of the court shall return an incomplete form to the defendant to complete.
3. Sacaton Court.
- a. A defendant shall submit a form at the Sacaton Court by 12:00 PM each day in order to appear the same day on the 1:30 PM arraignment docket.
 - b. The clerk of the court shall not accept forms after 12:00 PM.
 - c. If a defendant submits a form after 12:00 PM, the clerk of the court shall not accept the form and instruct the defendant that they will not appear on the 1:30 PM arraignment docket. The defendant may return the next business day and submit a new form.
4. Westend Court.
- a. The criminal docket is heard every other Monday at the Westend Court. A defendant shall submit a form at the Westend Court by 12:00 PM the Friday before Monday's criminal docket.
 - b. A defendant may call the Westend Court to find out when the next criminal docket is heard.
 - c. A defendant may submit a form to clear their bench warrant any day prior to the Friday, 12:00 PM deadline.
5. Email/Fax Submittals.
- a. A defendant may submit a form to the court by email or fax on the day the defendant intends to appear in court.
 - b. The clerk of the court shall process a form submitted by email or fax in the same manner as if the form had been submitted in person.
6. Motions by Defense Counsel.
- a. An attorney from the Defense Services Office or conflict counsel may submit a form on behalf of a defendant.
 - b. An attorney from the Defense Services Office or conflict counsel may submit a motion to quash bench warrant (motion) instead of a form. A motion to quash bench warrant shall contain the following information:
 - i. Defendant's full name.
 - ii. Defendant's date of birth.
 - iii. Defendant's case number(s).
 - iv. Defendant's mailing and physical addresses.
 - v. Defendant's telephone number(s).
 - vi. Defendant's email address, if available.
 - vii. State if the defendant will appear at the Sacaton or Westend Court.
 - viii. State the date the defendant will appear in court.
 - c. The clerk of the court shall return any motion that does not contain the information requested in section C(6)(b).
 - d. The clerk of the court shall process a form or motion under this section in the same manner as a form a defendant submits.
 - e. Advisory counsel who appears at the arraignment hearing may substitute for an attorney who submits a form or motion on behalf of a defendant.

D. Clearance Hearing.

1. A defendant who appears in court to clear their bench warrant shall not be subject to arrest.
2. The clerk of the court at the customer service window shall immediately submit the form to the arraignment clerk.
3. The clerk of the court who receives a form or motion by email or fax shall immediately submit the form to the arraignment clerk.
4. The arraignment clerk shall immediately place the defendant's case(s) on the arraignment docket. The arraignment clerk shall pull all the defendant's case file(s) and provide them, along with the other arraignment case files, to the arraignment judge.
5. The arraignment judge shall review the case file(s) and determine the following:
 - a. Date of the bench warrant(s).
 - b. Type of last hearing(s) held (i.e., pretrial, status conference, settlement conference, etc.).
 - c. Whether defendant was represented by Defense Services Office or conflict counsel.
 - d. Defendant's release conditions in all cases (i.e., own recognizance, bond or third party release).
 - e. The existence of any order or temporary order of protection/restraining order/no harm, no harass order.
6. The judge shall call the defendant's case(s) in open court.
 - a. The defendant shall be present in person. If the defendant fails to appear in person, the court shall not quash the bench warrant(s).
 - b. Defense Services Office may act as advisory counsel.
 - c. The defendant shall identify themselves by defendant's full name, date of birth, mailing and physical addresses.
 - d. The judge shall cite the charges and maximum penalties for each case.
 - e. The defendant or counsel shall re-enter the defendant's not guilty plea.
 - f. The judge shall cite the date(s) of the bench warrant(s) and ask the defendant if the defendant wishes to clear/quash the warrant(s).
 - g. A defendant may explain their non-appearance at the last hearing date. The judge shall not require an explanation for the defendant's non-appearance.
 - h. The judge shall clear/quash the warrant(s) and issue a new hearing date and time for each case.
 - i. A defendant shall be released on the defendant's own recognizance or released on the previous bond, if not forfeited.
 - i. The defendant shall sign an appearance bond. The appearance bond shall list the new hearing date and time.
 - ii. The judge shall re-impose any order of protection/restraining order/no harm, no harass order.
 - iii. The defendant shall be served with any order of protection/restraining order/no harm, no harass order before the defendant leaves court.
 - j. If a defendant was previously represented by Defense Services Office or conflict counsel, the court may reappoint Defense Services Office or conflict counsel.
7. The judge shall sign an order to clear/quash the bench warrant(s). The clerk of the court shall issue the order to Gila River Police Department.

8. The clerk of the court shall ensure Gila River Police Department returns the original bench warrant(s). The original bench warrant(s) shall be placed in the case file(s).

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