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December 2, 2005

Honorable Michael W. Catalano
Appellate Court Clerk
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RE: ***Reformatted Rules of Criminal Procedure and Comments***

Dear Mr. Catalano:

I have reviewed the proposed reformatted Rules of Criminal Procedure and accompanying Advisory Commission Comments and I was immediately struck with the definition in Rule 1, (e)(3), pertaining to the definition of "Magistrate." Since the original enactment of the Rules of Criminal Procedure, the General Assembly has designated who are magistrates in Tennessee as follows:

> **Tenn. Code Ann. § 40-5-102. Officials who are magistrates.**
> The following are magistrates within the meaning of this part:
>
> (1) The judges of the supreme court;
> (2) The judges of the circuit and criminal courts;
> (3) Judicial commissioners;
> (4) Judges of the courts of general sessions;
> (5) City judges in cities and towns; and
> (6) Judges of juvenile courts.

It may be worth noting that the statutory designation does not include judges of the intermediate appellate courts, judges of the chancery court and, in descending order, judicial commissioners are listed between the judges of the circuit / criminal courts and judges of the courts of general sessions. Thus, in my judgment, the definition of "Magistrate" wherein reference is made that the office is primarily intended to mean judges of the courts of general sessions is not in accord with § 40-5-102. "Magistrate" should also include in the definition that those persons who exercise judicial functions are subject to the provisions of the Code of Judicial Conduct as follows:

Application of the Code of Judicial Conduct

A. Anyone, whether or not a lawyer, who is an officer of a judicial system and who performs judicial functions, including an officer such as a magistrate, court commissioner, judicial commissioner, special master, divorce referee, juvenile referee, or any other referee performing judicial functions, is a judge within the meaning of this Code. All judges shall comply with this Code...

The Code of Judicial Conduct designates as "judges" anyone who (1) is an officer within the judicial system and (2) performs judicial functions. Such persons being "judges" within the meaning of the Code are subject to investigation by the Court of the Judiciary, discipline and removal recommendations ultimately by the Supreme Court. There are, accordingly, two requirements to be a "judge" and a "magistrate" within the meaning of the Code. As I interpret § 40-5-102, this does not include clerks of court or deputies and does not necessarily include justices of the peace, where they presently exist.

The reformatted Rule 1(e)(3) and Advisory Commission Comment appear at first impression to impermissibly rewrite the definition of constituting a "magistrate." It would be my considered recommendation that the definition of "magistrate" be as found in § 40-5-102 and the Advisory Committee Comments be revised to reflect that "magistrates" under these Rules are subject to the Code of Judicial Conduct and the Court of the Judiciary.

I will thank you in advance for your consideration.

Respectfully yours,

Thomas Edward Nelson
Presiding Judicial Commissioner

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: TENNESSEE RULES OF CRIMINAL PROCEDURE

JOINT COMMENTS SUBMITTED BY TENNESSEE DISTRICT PUBLIC DEFENDERS CONFERENCE ON BEHALF OF TENNESSEE DISTRICT PUBLIC DEFENDERS AND THE TENNESSEE BAR ASSOCIATION

The Tennessee District Public Defenders Conference (hereinafter referred to as **TDPDC**) and the Tennessee Bar Association (hereinafter referred to as **TBA**) submit the following comments to the proposed reformatted Rules of Criminal Procedure and revised Comments filed by the Court on November 28, 2005. The comments are presented on behalf of the elected Tennessee District Public Defenders and the Tennessee Bar Association.

I.

RULE 4. ARREST WARRANT OR SUMMONS ON A COMPLAINT

Rule 4 as proposed in the reformatted Rules of Criminal Procedure is in conflict with TCA 40-6-205. Issuance of Arrest Warrant (Exhibit 1) and TCA 40-6-215. Summons Instead of Arrest Warrant (Exhibit 2). Those recently enacted statutes provide that if the affiant is not a law enforcement officer, or none of the affiants in the case of multiple-affiants is a law enforcement officer, a criminal summons **shall** (emphasis added) issue instead of a warrant of arrest. These statutes further provide that if one of the affiants, in the case of multiple-affiants, is a law enforcement officer; a

warrant of arrest **may** (emphasis added) be issued. Further a warrant of arrest **may** (emphasis added) be issued, even if no affiant is a law enforcement officer, when the offense complained of is a felony or the offense of stalking; the magistrate has probable cause to believe that the issuance of a warrant of arrest to prevent an immediate threat of imminent harm to a victim; the affiant has a written police report concerning the incident or it can be verified that such written report is on file with the appropriate law enforcement agency; a reasonable likelihood exists the person will fail to appear in court; or the person cannot or will not offer satisfactory evidence of identification.

TCA 40-6-205 and 40-6-215, were initially enacted by Public Acts 2003, ch.366, from a proposal by a subcommittee from the Judicial Council developed in 2002 and 2003. Both were subsequently amended by Public Acts 2004, ch. 889 and Public Acts 2005, ch. 482.

The reformatted Rule 4 is a substantive repeat of the existing Rule 4. The preference for the issuance of a criminal summons instead of a warrant of arrest in certain instances is not recognized by either the existing or the proposed Rule 4. It is the preference of the **TDPDC** and the **TBA** that the Court change Rule 4 to conform to TCA 40-6-205 and TCA 40-6-215.

To affect such change, the **TDPDC** and the **TBA** propose the following as an addition to Rule 4:

> In making the determination whether to issue a criminal summons or a warrant of arrest, the magistrate, or clerk shall follow the provisions of TCA 40-6-205 and TCA 40-6-215.

II.

RULE 5. INITIAL APPEARANCE BEFORE MAGISTRATE

The **TDPDC** and the **TBA** submit that the proposed reformatted Rule 5 does not clearly recognize counsel's obligation to provide effective assistance of counsel. Counsel must have reasonably sufficient time and opportunity to prepare for the preliminary examination. Specifically subparagraph (c)(2)(A) of Rule 5 provides:

> **Set Preliminary Examination.** Unless the defendant expressly waives the right to a preliminary examination, when the defendant pleads not guilty the magistrate shall schedule a preliminary examination to be held within ten days if the defendant remains in custody and within thirty days if released.

Concerning the significance of the preliminary hearing (examination), the Tennessee Supreme Court has held:

> . . . the Tennessee preliminary hearing is a "pretrial type of arraignment where certain rights may be sacrificed or lost." McKeldin v State, 516 S.W.2d 82 (1974) at page 85.

McKeldin *supra*, held that the defendant has the Sixth Amendment right to counsel at the preliminary hearing and it is not a mere formal appointment of counsel[1] but the right to effective assistance of counsel.[2]

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[1] This constitutional guarantee is not satisfied by a mere formal appointment. *Avery v. Alabama, 308 U.S. 444, 60 S. Ct. 321, 84 L. Ed. 377 (1940).* McKeldin at page 86.

[2] The Sixth Amendment guarantees to a criminal defendant the right "to have the assistance of counsel for his defense." This means the *effective* assistance of counsel, and "requires the guiding [**11] hand of counsel at every step in the proceedings." *Powell v. Alabama, 287 U.S. 45, 53 S. Ct. 55, 77 L. Ed. 158 (1932).* McKeldin at page 86.

In summary we hold:

a. that a preliminary hearing is a critical stage in a criminal prosecution in Tennessee;

b. that a criminal defendant is guaranteed the right to counsel at a preliminary hearing;

c. that the state must provide competent counsel for an indigent defendant at the preliminary hearing.

In this particular case we hold that the petitioner was denied the effective assistance of counsel at a critical stage of the prosecution in violation of the Sixth Amendment. McKeldin v State, 516 S.W.2d 82 (1974) at page 86.

Tennessee Code Annotated § 8-14-205(h) specifically recognizes appointed counsel's right to have sufficient time and opportunity to prepare the defendant's case.[3] The statute recognizes the same right when the court determines the defendant is not an indigent person and the defendant secures counsel.[4]

In some cases, to insure effective assistance of counsel, an attorney must request sufficient time to prepare for the preliminary examination (hearing) that may in some cases be beyond ten days for a defendant in custody or thirty days if released from custody. **TDPDC** and the **TBA** request that the Court clearly recognize the responsibility of counsel, in the appropriate case, to have the preliminary examination

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[3] TCA § 8-14-205(h) - Upon the appointment of the district public defender, and/or an attorney pursuant to subsections (e) and (f), no further proceedings shall be had in the case until such counsel has had reasonably sufficient time and opportunity to prepare the case for trial. District public defenders shall be authorized access to query state and federal criminal records history information as the duties of their office may require.

[4] TCA § 8-14-205(i) If the court determines that the person accused or proceeded against in any criminal prosecution or other proceeding involving a possible deprivation of liberty, or the person filing a habeas corpus or other post-conviction proceeding is not an indigent person, the court shall advise such person with respect to right to counsel and afford such person a reasonable time, to be fixed by the court, and opportunity to secure counsel and shall stay further proceedings until counsel so obtained has had reasonable time and opportunity to prepare the case for trial.

held on a date that is beyond the limits proscribed in Rule 5. To recognize that responsibility **TDPDC** and the **TBA** suggest that the following be included in the comment to Rule 5 (and if deemed appropriate added to the comment to Rule 44):

> The Commission acknowledges that assignment of counsel may require that a preliminary examination be held outside the time frame set out in Rule 5 due to the need for counsel to have adequate time to investigate and prepare for the preliminary examination. See TCA 8-14-205.

III.

REFERENCE TO RULE 46 IN RULE 5 (c)(1)(B)

Rule 5 refers to Rule 46. Specifically Rule 5 (c)(1)(B) provides:

> **(B) Set Preliminary Examination Unless Not Required.** The magistrate shall schedule a preliminary examination to be held within ten days if the defendant remains in custody and within thirty days if released under **Rule 46** (Emphasis added), unless:
> (i) the defendant expressly waives the right to a jury trial and to a prosecution based only on an indictment or presentment; or
> (ii) a preliminary examination is not required under Rule 5(e) below.

It is noted that Rule 46 is RESERVED. Should this reference to "Rule 46 be deleted or is there another rule that should be referenced?

TDPDC and the **TBA** thank the Court for the invitation to comment on the proposed reformatted Rules of Criminal Procedure and express **TDPDC** and the **TBA**'s appreciation to the members of the Rules Commission for their work. **TDPDC** and the

TBA thank the Court in advance for their consideration of **TDPDC** and the **TBA**'s comments.

Respectfully submitted,

Tennessee District Public Defenders Conference

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Certificate of Service

I hereby certify that a true and exact copy of the foregoing has been served on the attached list by placing a copy in the United States Mail, postage prepaid, this 29th day of December 2005.

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EXHIBIT 1

40-6-205. Issuance of warrant

(a) If the magistrate is satisfied from the written examination that there is probable cause to believe the offense complained of has been committed and that there is probable cause to believe the defendant has committed it, then the magistrate shall issue an arrest warrant. The finding of probable cause shall be based on evidence, which may be hearsay in whole or in part; provided, however, that there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished. Except as provided in subsection (b), if the affiant is not a law enforcement officer, as defined by § 39-11-106(21), or if none of the affiants in the case of multiple-affiants is a law enforcement officer, as defined by § 39-11-106(21), then a criminal summons as provided in § 40-6-215 shall issue instead of a warrant of arrest.

(b) Notwithstanding the provisions of subsection (a), the magistrate may issue a warrant of arrest instead of a criminal summons if:

(1) The offense complained of is a felony, as defined in § 39-11-110, or the offense of stalking, as defined in § 39-17-315;

(2) There are multiple-affiants and one or more of the affiants is a law enforcement officer as defined in § 39-11-106(21);

(3) After examination of the affiant and the affidavit of complaint, the magistrate has probable cause to believe that the issuance of an arrest warrant rather than a criminal summons is necessary to prevent an immediate danger of domestic abuse to a victim as defined in § 36-3-601(8);

(4) The affiant has a written police report concerning the incident for which the arrest warrant is sought or it can be verified that such written report is on file with the appropriate law enforcement agency;

(5) A reasonable likelihood exists that the person will fail to appear in court;

(6) There are one (1) or more outstanding warrants or criminal summons for such person; or

(7) The person cannot, has not or will not offer satisfactory evidence of identification.

HISTORY: Code 1858, § 5022; Shan., § 6981; Code 1932, § 11520; T.C.A. (orig. ed.), § 40-704; Acts 2003, ch. 366, § 3; 2004, ch. 889, § 1; 2005, ch. 482, § 3.

NOTES:

AMENDMENTS. The 2003 amendment, effective January 1, 2004, rewrote this section which read: "If the magistrate is satisfied from the written examination that the offense complained of has been committed, and there is reasonable ground to believe the defendant is guilty thereof, the magistrate shall issue a warrant of arrest."

The 2004 amendment, in the last sentence of (a), added "Except as provided in subsection (b)," at the beginning and deleted the proviso which read: "; provided, however, that in the case of multiple-affiants, if one or more of the affiants is a law enforcement officer as defined by § 39-11-106(21), then the magistrate may issue a warrant of arrest; provided, further, that if, after examination of the affiant and the affidavit of complaint, the magistrate has probable cause to believe that the issuance of a warrant of arrest rather than a criminal summons is necessary to prevent an immediate threat of imminent harm to a victim as defined in § 36-3-601(8), and makes a written finding of fact that an arrest warrant rather than a criminal summons is necessary, the magistrate may issue a warrant of arrest notwithstanding the fact that

the affiant is not a law enforcement officer, or, in the case of multiple-affiants, that none of the affiants is a law enforcement officer"; and added (b).

The 2005 amendment added ", or the offense of stalking, as defined in § 39-17-315" at the end of (b)(1).

EFFECTIVE DATES. Acts 2003, ch. 366, § 8. January 1, 2004.

Acts 2004, ch. 889 § 4. June 8, 2004.

Acts 2005, ch. 482, § 10. July 1, 2005.

EXHIBIT 2

40-6-215. Summons instead of arrest warrant

(a) (1) As an alternative to an arrest warrant as provided in § § 40-6-201 -- 40-6-214, the magistrate or clerk may issue a criminal summons instead of an arrest warrant except when an affiant is not a law enforcement officer as defined by § 39-11-106(21), or none of the affiants in the case of multiple-affiants is a law enforcement officer as defined by § 39-11-106(21), in which instance the magistrate or clerk shall issue a summons.

(2) Notwithstanding the provisions of subdivision (a)(1), the magistrate may issue an arrest warrant instead of a criminal summons if:

(A) The offense complained of is a felony, as defined in § 39-11-110, or the offense of stalking, as defined in § 39-17-315;

(B) There are multiple-affiants and one or more of the affiants is a law enforcement officer as defined in § 39-11-106(21);

(C) After examination of the affiant and the affidavit of complaint, the magistrate has probable cause to believe that the issuance of a warrant of arrest rather than a criminal summons is necessary to prevent an immediate danger of domestic abuse to a victim as defined in § 36-3-601(8);

(D) The affiant has a written police report concerning the incident for which the arrest warrant is sought or it can be verified that such written report is on file with the appropriate law enforcement agency;

(E) A reasonable likelihood exists that the person will fail to appear in court;

(F) There are one (1) or more outstanding warrants or criminal summons for such person; or

(G) The person cannot, has not or will not offer satisfactory evidence of identification.

(b) The criminal summons shall be in substantially the same form as an arrest warrant except that it shall summon the defendant to appear before the magistrate or court at a stated time and place. It shall give notice to the person summoned that:

(1) The defendant is being charged with a state criminal offense;

(2) The summons is being issued in lieu of an arrest warrant;

(3) The failure to appear in court on the date and time specified is a separate criminal offense regardless of the disposition of the charge for which the person is originally summoned;

(4) Failure to appear for booking and processing is a separate criminal offense;

(5) An arrest warrant will issue for failure to appear for court or failure to appear for booking and processing;

(6) The failure to appear for court or failure to appear for booking and processing shall be punished as provided in § 39-16-609; and

(7) The defendant is encouraged to consult with an attorney about the summons.

(c) The summons shall be executed in triplicate and shall include a copy of the affidavit of complaint. When the summons is served, the original is to be returned to the court specified in the summons, one (1) copy, including a copy of the affidavit of complaint, given to the person summoned, and one (1) copy to be sent to the sheriff or other law enforcement agency in the county responsible for booking procedures.

(d) By accepting the summons, the defendant agrees to appear at the sheriff's department, or other law enforcement agency in the county responsible for booking procedures, to be booked and processed as directed by the sheriff's department or other such law enforcement agency. If the defendant fails to appear for booking and processing as directed, the court shall issue a bench warrant for such person's arrest. Failure to appear for booking and processing is a separate criminal offense and shall be punished as provided in § 39-16-609.

(e) The sheriff or other law enforcement agency in the county responsible for serving the summons shall provide the defendant with notice of a court time and date the defendant is to appear. Such notice shall be given either at the time the summons is served or at the time the defendant is booked and processed, if booking and processing is ordered to occur prior to the first court date. The court date so assigned shall be not less than ten (10) calendar days nor more than forty-five (45) days from service of the summons or booking and processing, if booking and processing is ordered to occur prior to the first court date. The notice shall be explicit as to where and when the court is to convene and shall advise the defendant that the defendant is encouraged to consult with an attorney about the summons. The court clerk, sheriff, or other law enforcement agency shall provide notice to the affiant, or affiants in the case of multiple-affiants, of the date and time when the defendant is required to appear before the court.

(f) If the person summoned fails to appear in court on the date and time specified, the court shall issue a bench warrant for such person's arrest. Failure to appear for court is a separate criminal offense and shall be punished as provided in § 39-16-609.

(g) The summons shall have printed on it in conspicuous block letters the following: NOTICE: YOU ARE CHARGED WITH A STATE CRIMINAL OFFENSE. THIS SUMMONS HAS BEEN ISSUED IN LIEU OF AN ARREST WARRANT. YOUR FAILURE TO APPEAR IN COURT ON THE DAY AND TIME ASSIGNED BY THIS SUMMONS OR THE FAILURE TO APPEAR FOR BOOKING AND PROCESSING WILL RESULT IN YOUR ARREST FOR A SEPARATE CRIMINAL OFFENSE PUNISHABLE AS PROVIDED IN T.C.A.§ 39-16-609 REGARDLESS OF THE DISPOSITION OF THE CHARGE FOR WHICH YOU WERE ORIGINALLY SUMMONED. YOU ARE ENCOURAGED TO CONSULT WITH AN ATTORNEY ABOUT THIS SUMMONS. THE SIGNING AND ACCEPTANCE OF THIS SUMMONS IS NOT AN ADMISSION OF GUILT OF THE CRIMINAL OFFENSE.

(h) Each person receiving a summons under this section shall sign the summons indicating knowledge of the notice in subsection (g). The signing of the summons is not

an admission of guilt of the criminal offense charged. The signature of each person creates the presumption of knowledge of the notice and a presumption to violate this section if the person should not appear in court as directed or for booking and processing. If the person to receive the summons refuses to sign and accept the summons, the person shall be taken immediately before a magistrate. The magistrate shall order the terms and conditions of the defendant's release to include the posting of a bail as provided by title 40, chapter 11.

(i) At the initial or any subsequent appearance of a defendant before the court, the judge may order the posting of bail as provided by title 40, chapter 11, as a condition of the continued or further release of the defendant pending the disposition of the summons.

(j) The criminal summons shall be directed and served as provided by § § 40-6-209 and 40-6-210 and shall be returned as provided by subsection (c).

(k) The provisions of this section shall govern all aspects of the issuance of criminal summons, notwithstanding any provision of Rule 4 of the Tennessee Rules of Criminal Procedure to the contrary.

(*l*) If any subsection, paragraph, sentence, clause or phrase of this section is for any reason held or declared to be invalid, void, unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of this section.

HISTORY: Acts 1977, ch. 225, § 1; T.C.A., § 40-716; Acts 2003, ch. 366, § 5; 2004, ch. 889, § 2; 2005, ch. 482, § 4.

NOTES:

COMPILER'S NOTES. Acts 2003, ch. 366, § 5 amended this section effective January 1, 2004. The text set out above reflects the amendments to the section by the act. Prior to January 1, 2004, this section reads as described in the amendment note.

AMENDMENTS. The 2003 amendment, effective January 1, 2004, rewrote this section which read: "(a) As an alternative to a warrant of arrest as provided in § § 40-6-201 -- 40-6-214, the magistrate, judge or clerk may issue a criminal summons instead of a warrant of arrest.

"(b) The criminal summons shall be in substantially the same form as a warrant of arrest except that it shall summon the defendant to appear before the magistrate or court at a stated time and place.

"(c) The criminal summons may be served by any person authorized to serve a summons in a civil action and shall be served and returned in the same manner as a summons in a civil action."

The 2004 amendment, in (a)(1), deleted ", judge" following "magistrate" and deleted the proviso at the end of (a)(1) which read: "provided, however, that if, after examination of the affiant and the affidavit of complaint, the magistrate or judge has probable cause to believe that the issuance of a warrant of arrest rather than a criminal summons is necessary to prevent an immediate threat of imminent harm to a victim as defined in § 36-3-601(8), and makes a written finding of fact that an arrest warrant rather than a criminal summons is necessary, the magistrate or judge may issue a warrant of arrest notwithstanding the fact that the affiant is not a law enforcement officer, or, in the case of multiple-affiants, that none of the affiants is a law enforcement officer", and added (a)(2); in (b), added "except that it shall summon the defendant to appear before the magistrate or court at a stated time and place" at the end of the first sentence in the introductory paragraph and deleted the second and third sentences in the introductory paragraph which read: "The summons shall command that the defendant appear for booking and processing at the office of the sheriff or other law enforcement agency in the county responsible for booking procedures. A court date will be assigned following booking and processing procedures.", substituted "in court on the date and time specified is a separate criminal offense" for "for booking and processing or for court are separate criminal offenses" at the beginning of (b)(3), added (b)(4) and redesignated former (b)(4)-(6) as (b)(5)-(7), respectively, substituted "failure to appear for court or failure to appear for booking and processing;" for

"failure to comply with the booking and court procedures or failure to appear for court;" at the end of (b)(5), and transposed "booking and processing" and "court" in (b)(6); substituted "in the county responsible for booking procedures" for "where the person being summoned is to appear for booking and processing" at the end of (c); substituted the present provisions of (d)-(f) for the former provisions which read:

"(d) The summons shall command that the defendant appear for booking and processing at the office of the sheriff or other law enforcement agency in the county responsible for booking procedures not more than ten (10) calendar days from the date of service of the summons. The summons shall clearly state the location of the booking location to which the defendant is to report, including address and room number. The summons may set forth certain reasonable hours of the day or night when booking will not be allowed on a summons so as to accommodate the other booking duties of the sheriff or other law enforcement agency in the county responsible for booking procedures.

"(e) When the defendant appears for booking and processing, the defendant shall be subject to all procedures for booking as for an arrest warrant, such as fingerprinting and photographing, but the defendant shall not be unduly detained. In no event shall the defendant be locked in holding cells with persons detained on arrest warrants.

"(f) Following the booking process, the sheriff or other law enforcement agency in the county responsible for booking procedures, or the court clerk, shall provide the defendant with notice of a court time and date the defendant is to next appear, which shall be not less than ten (10) calendar days from booking nor more than forty-five (45) days from booking. The notice shall be explicit as to where and when the court is to convene and shall advise the defendant that the defendant is encouraged to consult with an attorney about the summons."; deleted "AS DIRECTED BY THIS SUMMONS" preceding "will result" in the third sentence of the summons in (g); substituted "as directed or for booking and processing" for "or for booking and processing as required by the summons" at the end of the third sentence in (h); added "and 40-6-210" in (j); and added (k) and (*l*).

The 2005 amendment added ", or the offense of stalking, as defined in § 39-17-315" at the end of (a)(2)(A).

EFFECTIVE DATES. Acts 2003, ch. 366, § 8. January 1, 2004.

Acts 2004, ch. 889 § 4. June 8, 2004.

Acts 2005, ch. 482, § 10. July 1, 2005.

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December 29, 2005

Michael W. Catalano, Clerk
Appellate Court Clerk's Office
Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: TACDL Comments Regarding Tennessee Rules of Criminal Procedure

Dear Mr. Catalano:

Enclosed please find the Tennessee Association of Criminal Defense Lawyers comments regarding the proposed changes to the Tennessee Rules of Criminal Procedure.

Sincerely,

Jennifer Lynn Thompson
Attorney at Law

JLT/edh

cc via email: Barbara Short
Randy Reagan
Bill Massey

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: TENNESSEE RULES OF CRIMINAL PROCEDURE

COMMENTS SUBMITTED BY THE TENNESSEE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS ON BEHALF OF ITS MEMBERS

The Tennessee Association of Criminal Defense Lawyers (hereinafter referred to as TACDL), on behalf of its members, would adopt and support the comments submitted by the Tennessee Public Defenders Conference to the proposed reformatted Rules of Criminal Procedure and revised Comments filed by the Court on November 28, 2005.

Respectfully submitted,

Tennessee Association of Criminal Defense Lawyers

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