

1 Honorable Barbara Rodriguez Mundell
2 Presiding Judge
3 Superior Court of Arizona, Maricopa County
4 125 W. Washington St.
Phoenix, AZ 85003
(602) 506-6130

5 IN THE SUPREME COURT OF THE STATE OF ARIZONA

6
7 In the Matter of:

} Supreme Court No. R-06-0016

8 PETITION TO AMEND RULE 1.6
9 OF THE ARIZONA RULES OF
10 CRIMINAL PROCEDURE

} COMMENT OF THE SUPERIOR
} COURT OF ARIZONA, MARICOPA
} COUNTY IN SUPPORT OF
} THE PETITION TO AMEND
} RULE 1.6

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13 The Presiding Judge of the Superior Court in Maricopa County files the
14 following comment pursuant to Rule 28, Arizona Rules of the Supreme Court, in
15 support of Petition R-06-0016, concerning the proposed amendment of Rule 1.6,
16 Arizona Rules of Criminal Procedure.

17 The Superior Court in Maricopa County recommends that the Supreme
18 Court adopt the “Majority’s Proposed Amendments to Rule 1.6” and the
19 associated operational guidelines proposed by the Criminal Rules Video-
20 Conference Advisory Committee (“CRVAC”). The “Majority’s Proposed
21 Amendments to Rule 1.6” is the result of a consensus reached by the members of
22 the CRVAC with one exception. In crafting the “Majority’s Proposed
23 Amendments to Rule 1.6,” the CRVAC considered the existing case law, input
24 from the stakeholders on CRVAC, presentations by vendors of interactive
25 audiovisual equipment, judicial officers from another state and the comments of
26 the Committee on Limited Jurisdiction Courts and the Committee on the Superior
27 Courts.

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1 The one exception mentioned above in which consensus by the CRVAC
2 members was not reached involves conducting initial appearances (IAs) utilizing
3 an interactive audio-video device. The two-member minority opposed including
4 IAs within the scope of the rule based on their contention that an IA is a critical
5 event requiring the defendant to be physically present before the presiding judicial
6 officer. Notably, the technology is such that a video appearance is the functional
7 equivalent of being physically present. In addition, the majority of IAs are quick
8 proceedings which last only a few minutes. Moreover, the information exchange
9 that typically occurs during an IA can be handled adequately through an
10 interactive audio-video device without diminishing any of a defendant's rights.
11 Finally, the minority's argument that the IA is a critical event is undermined by
12 the fact that none of the public defense agencies cover the IA court in Maricopa
13 County. Simply put, IAs can be conducted via an interactive audio-video device.

14 The CRVAC submitted a "Report to the Arizona Judicial Council" on June
15 17, 2009 which provides support for the proposed rule change. The Superior Court
16 in Maricopa County adopts the reasons set forth in the June 17, 2009 report.
17 In addition to the reasons set forth in the report, the Superior Court in Maricopa
18 County supports the "Majority's Proposed Amendments to Rule 1.6" for the
19 reasons set forth in its previous comment dated May 18, 2007. As stated in the
20 previous comment, the Superior Court in Maricopa County with input from all the
21 stakeholders is in the process of designing a new Downtown Criminal Tower that
22 will be able to serve the County for the next century. The infrastructure design has
23 focused on accommodating the future needs of a large criminal justice system,
24 including the expanded use of videoconferencing in criminal cases. The Superior
25 Court in Maricopa County has emphasized to the designers the necessity of an
26 infrastructure capable of providing videoconferencing to the outside world. The
27 technology can be used to connect in-custody defendants when legally
28 permissible, as well as victims, witnesses, lawyers, and any other participants as

1 necessary. The proposed amendment to Rule 1.6 will increase the efficiencies of
2 the Downtown Criminal Tower courtrooms, decrease transportation costs, and
3 greatly reduce safety concerns with their related financial liabilities.

4 Respectfully submitted this 14th day of July, 2009.

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Honorable Barbara Rodriguez Mundell
8 Presiding Judge
9 Superior Court of Arizona, Maricopa County

10 Original and six (6) copies delivered this
11 14th day of July, 2009 to:

12 Clerk of the Arizona Supreme Court
13 1501 W. Washington, Suite 402
14 Phoenix, AZ 85007

15 Copy mailed this
16 14th day of July, 2009 to:

17 Pima County Attorney
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