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Task Force on Rules of the Supreme Court of Arizona
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SUPREME COURT OF ARIZONA

PETITION TO AMEND RULES) Supreme Court No. R-26-____
122 AND 122.1 OF THE RULES)
OF THE SUPREME COURT) **PETITION**
OF ARIZONA)
_____)

1. Introduction. Petitioner is the Task Force on Rules of the Supreme Court of Arizona (“Task Force”), which the Court established by [Administrative Order \(“A.O.”\) No. 2025-89](#). Undersigned is the Chair of that Task Force, and he is filing this petition with the approval of a majority of Task Force members.

This petition requests amendments to Supreme Court Rule 122 (“Use of Recording Devices in a Courtroom”) and Rule 122.1 (“Use of Portable Electronic Devices in a Courthouse”). A.O. No. 2025-89, paragraph 2, authorizes this Task Force to propose substantive as well as stylistic amendments to these two rules. One of the proposed substantive amendments would eliminate provisions regarding “personal audio recorders,” a specific category of recording devices. Other

substantive amendments address matters of court security and changes in technology.

The Task Force will be filing a petition in the future concerning the entire set of Supreme Court Rules. However, it is filing this petition regarding Rules 122 and 122.1 now because the issues it raises, including the matter of personal audio recorders, are of immediate concern and warrant the Court's consideration during the 2026 rules cycle.

Appendix A contains a discussion of the proposed substantive amendments to these two rules. The proposed amendments to Rule 122 are shown in Appendix B. Appendix C shows the proposed amendments to Rule 122.1. Appendices B and C include clean and redlined versions.

Rule petition No. R-25-0031, which also concerns Rule 122, was filed in January 2025. The Court entered an Order during its August 26, 2025, Rules Agenda referring the issues raised by that petition to this Task Force, and the Court subsequently continued R-25-0031 to its August 2026 Rules Agenda. This Task Force petition proposes amendments to Rule 122 that are more extensive and substantially different than those proposed by R-25-0031. The Task Force petition also proposes amendments to a companion rule, Rule 122.1. The content of R-25-0031, however, warrants the Court's consideration. Accordingly, the Task Force

requests the Court to review the substance of R-25-0031, and to then consider this superseding petition.¹

2. Background. This Court promulgated the Supreme Court Rules in 1955. Rules 122 and 122.1, however, were not in the original set. The Court adopted Rule 122 in 1993. It adopted Rule 122.1 in 2013, concurrently with extensive amendments to Rule 122. Those amendments to Rule 122 and new Rule 122.1 were proposed by the Court’s Committee on the Impact of Wireless Mobile Technologies and Social Media on Court Proceedings, frequently referred to as the “Wireless Committee.”

Public interest in court proceedings is nothing new. What has changed over the past several decades is recording and broadcasting technology, which allows the public to listen to and watch court proceedings without being physically present in a courtroom.

Rule 122 was adopted in 1993 primarily to regulate the courtroom presence of television cameras. Those bulky and physically intrusive cameras were brought into courtrooms with an assortment of wires, lights, microphones, and other

¹ A Task Force workgroup undertook the initial discussion of Rules 122 and 122.1. As permitted by A.O. No. 2025-89, the workgroup was composed of non-Task Force members, including several judicial officers, a superior court administrator, and the petitioner in R-25-0031. The workgroup reported its recommendations during two Task Force meetings.

apparatus. This equipment was readily obvious and posed a potential distraction in a courtroom's relatively limited space.

The original text of Rule 122 was directed at conventional media, i.e., television and radio stations, which had the capability at that time of broadcasting court proceedings to a wide audience. The objective of Rule 122 was to ensure that news journalists and their cameras, microphones, and various apparatus did not overwhelm the relatively limited space and logistics of a courtroom. The rule was also intended to ensure that journalists did not disrupt the proceeding, that they preserved the integrity and gravity of a judicial proceeding, and that neither journalists nor their cameras and microphones impaired the security of those in attendance, including parties, witnesses, judicial staff, and jurors.

Accordingly, the 1993 version of Rule 122 required the person or organization seeking to broadcast a court proceeding to first secure the court's approval to do so. The rule contained several factors for the court to consider before ruling on these requests, such as the impact of coverage on the fairness of the proceeding, the parties' privacy interests, the safety and well-being of any witness or juror, and whether coverage would be a distraction or disrupt the proceeding.

The turn of the century brought rapid changes in technology. These changes included the widespread availability of affordable wireless mobile devices and the development of online social media. The progression included the introduction of

iPods (2001), Facebook (2004), YouTube (2005), Twitter (2006), iPhones (2007), and iPads (2010). This Court established the Wireless Committee in 2012 to consider the impact of the changing technology on Arizona court proceedings. As an executive for a Phoenix television station noted during his 2012 presentation to the Wireless Committee,

... a camera now built into an iPhone has resolution far superior to that of a camera, circa 1993, which required two men to move into the courthouse. Rule 122 refers to tripods and wires, but tripods are no longer essential, and wires may be passé. Most cameras today are considerably quieter and less distracting than the ones used in 1993. Some cameras can be operated robotically. [See page 6 of the [Wireless Committee's 2012 report](#).]

The Wireless Committee considered the questions of who the media was and who journalists were; the answers to those questions, then and today, are challenging and complex. In any event, the Wireless Committee proposed adding to Rule 122 a new factor for trial courts to consider on a request for courtroom coverage. The new factor, which the Court subsequently adopted, was “whether the person making the request [to cover a court proceeding] is engaged in the dissemination of news to a broad community.” Because of improvements in technology by the year 2013, virtually everyone in a courtroom gallery could be a media center or a “citizen journalist,” even someone with no articulable purpose of reporting courtroom news to a wide public audience. The Wireless Committee reasoned that rather than mechanically granting requests for coverage, the trial court should consider whether

the person who submitted the request had at least some legitimate purpose to record or broadcast the proceeding.

To ensure that the trial court had control over broadcasters in the courtroom and that neither judicial officers nor witnesses faced a multitude of recording devices in the courtroom gallery, the 2013 amendments to Rule 122 refined other provisions. These new amendments allowed a party to object to coverage, governed the manner of coverage (the rule amendments required coverage that “preserves the dignity of the proceeding”), directed the placement of equipment and the number of cameras, and required “pool coverage” if more than one person sought to cover a proceeding.

The use of electronic technology and the number of social media platforms and applications has greatly expanded since 2013. While the storage capacity of those devices has increased by multiples, the components of the devices and the devices themselves have become more miniaturized. New devices have functionality that would have been unimaginable two or three decades ago, and the future portends even more technological developments.

3. Personal Audio Recorders. It was common in 1993 for newspaper or radio reporters to bring to a courtroom a small and unobtrusive audio recorder that typically used a cassette tape. These reporters would often hold their recorders while observing a court proceeding—or set the recorder on the bench on which they were sitting—and audio record portions of courtroom events, which they would use later

to prepare a news story. The belief in 1993 was that the use of these audio recorders was qualitatively different from television broadcast cameras, and that a journalist should be permitted to use an audio recorder—not for broadcasting a proceeding but to assist the journalist in preparing a report of the court event—and that a journalist using a device in this manner should not be required to request formal court approval under Rule 122. Accordingly, the original 1993 version of Rule 122 included this section:

(i) Individual journalists may use their personal audio recorders in the courtroom, but such usage shall not be obtrusive or distracting, and no changes of tape or reels shall be made during court sessions. In all other respects, news reporters or other media representatives not using cameras or electronic equipment shall not be subject to these guidelines.

Significantly, the 1993 provision quoted above expressly allowed only “journalists” to use a personal audio recorder. Because they were responsible professionals, journalists who used a personal audio recorder were not required to observe the other “guidelines” of Rule 122 if their recorders were not otherwise obtrusive or distracting. The 1993 provision did not include a definition of a “personal audio recorder,” but the meaning of the term was widely understood.

The Wireless Committee drafted a revised provision on the use of personal audio recorders; see the December 2012 [Wireless Committee Report](#) at pages 7-8:

The revisions to Rule 122 allow use of a ‘personal audio recorder,’ but only after the operator notifies the court of the intended use. A ‘personal audio recorder’ is one that is on, held by, or immediately next to the operator. As under the current rule, the judge has no authority under this proposed rule to

forbid the use of a personal audio recorder, but the notice requirement will make the court aware of when one is being used in the courtroom.

A fuller discussion of this subject was reported in the [November 7, 2012](#), Wireless

Committee minutes:

The members then discussed whether the requirements of the draft rule should apply to devices that are used solely for audio recording. On the one hand, there is a desire for transparency in court proceedings. On the other, judges should be aware of any recording that occurs inside a courtroom. For example, judges should have control of audio recordings if there are bench conferences, or off-the-record or privileged conversations; otherwise, members of the public could post or broadcast these conferences or conversations without limitation. Members noted that audio recording technology is sophisticated enough to make good quality recordings from the gallery, and the judge should therefore be notified before this occurs.

After further discussion, the members agreed that a formal request process was not necessary for a person wishing to audio record a proceeding. However, any person, including a journalist, would be required to notify the court that they were using a personal audio recorder in the courtroom. This would allow the court to advise those persons that they are subject to the provisions of Rule 122, section (l). [Note: this section is now section (k), “prohibitions.”] This abbreviated process would also alert the parties that someone was making an audio recording. The proposed rule would not authorize the judge to prohibit use of a personal audio recorder but rather would serve only to provide notice of use.

The Wireless Committee filed petition number R-13-0012 on January 9, 2013.

Rule 122(h), which as originally proposed by the Wireless Committee’s petition was designated section (j), included a reference to “journalists” because that term was used in the former rule, and because it was anticipated that professional journalists would continue to be the primary, although perhaps not the exclusive, users of

personal audio recorders. The Wireless Committee's original version of this proposed section began as follows:

j. Personal audio recorders; required notice to the court. Any person, including a journalist, may use a personal audio recorder during a court proceeding, but only after the person has given notice of that intended use to the judge or to the judge's staff prior to using the device.

The Wireless Committee subsequently filed an amended petition (please note that R-13-0012 had a bifurcated comment period), which advised,

The State Bar commented that it was unnecessary that this section specifically include 'journalists' if anyone could use a personal audio recorder. The Wireless Committee agreed, and it eliminated a reference to 'journalists.'

Hence, the provision adopted by the Court in 2013, and which is currently effective, provides as follows:

(h) Personal Audio Recorders; Required Notice to the Court. A person may use a personal audio recorder during a proceeding, but the person must notify the judge or the judge's staff prior to using the device. A person who uses a personal audio recorder is not required to submit a request under paragraph (c) of this rule, but a person who wishes to record or broadcast the audio portion of a proceeding with a device that is not on the person must do so. The use of a personal audio recorder must not be obtrusive, distracting, or otherwise prohibited, and use is subject to the prohibitions of paragraph (k) of this rule.

There are two notable points about the current version of Rule 122(h). The first is that the words "or broadcast" do not appear in the proposed amendments to Rule 122 that were filed with rule petition number R-13-0012. Those two words appeared for the first time in the Wireless Committee's Amended Petition. Yet there is no mention whatsoever in the Amended Petition concerning the addition of those

two words, or any rationale for this change. Nor is there any memorialization in the detailed minutes of the Wireless Committee of any intent to add those two words. Given the detail with which the Committee documented its work, the omission in the Committee’s records of any intent to add those words—and the absence of any discussion in the Amended Petition or the reply about adding the words—is curious. In the absence of documentation, we are left to speculate about the rationale.

The other notable point is that use of a cell phone² to record “audio only” is incongruent with other provisions of Rule 122. Please compare the definitions of “personal audio recorder” under current subpart (b)(6) with a “recording device” under subpart (b)(8) (emphasis added in each definition):

(6) A ‘personal audio recorder’ is a device used to record audio only, and that is on, held by, or immediately next to, the person who is operating the device.

(8) A ‘recording device’ is an electronic or mechanical apparatus and related equipment used to capture and store sound or images, or both, or from which a person can retrieve or broadcast sound or images. A camera, a smart phone, and an audio recorder are examples of recording devices.

A cell phone arguably falls within both definitions, leading to uncertainty about allowable uses of these devices.

² A “personal audio recorder” was originally envisioned as a small cassette tape recorder. Those devices, which had only two functions—to record audio and to play it back—are less common now. They have been replaced by cell phones, which are ubiquitous and have a multitude of functions.

Because a cell phone could arguably fall within either definition, section (h) undercuts the criteria in current section (d) (“request to cover a court proceeding”). For example, if an attendee can use a cell phone to broadcast a court proceeding merely by notifying court staff at the start of a courtroom event that he or she intends to do so, a judicial officer loses the opportunity to evaluate and apply the section (d) factors in advance of the proceeding. Section (h) removes control over the broadcast of a court proceeding from a judicial officer and cedes that control — and the issues of fairness, privacy, safety, and dignity of the proceeding that derive from that control — to anonymous spectators.

Put another way, anonymous individuals using cell phones or similar hand-held devices to record and broadcast in the courtroom are no longer on an equal footing with professional journalists because they can use their devices for everything a journalist could do but without needing to first submit a request for court approval. Those individuals occasionally cite section (h) to judicial officers to justify using their cell phones to record and broadcast *video* of court proceedings, a result that the Wireless Committee did not contemplate and that’s become problematic.³ That use might be innocent, but it occasionally has a nefarious

³ Even when an individual advises court staff that they intend to use a cell phone only to record audio, it not easy for court staff to determine during a proceeding whether a phone protruding from a shirt pocket or being held in a person’s hand is recording video rather than audio. Moreover, monitoring the gallery for violations can require considerable court resources.

purpose—to intimidate parties and witnesses, to disrupt a proceeding, and even to distort events—that undermines the dignity of the court. These amendments propose eliminating section (h) and requiring a personal audio recorder to be treated the same as any other recording device.

4. Discussion. The amendments to Rule 122 proposed by this petition do not reduce transparency or public oversight, as some of the comments to R-25-0031 contended regarding those previously suggested amendments. Rather, this Task Force petition proposes procedures that would treat users of all recording devices equally, which is a reasonable objective.

Petitioner further submits that the proposed amendments are consistent with Court policy regarding the public’s interest in court proceedings. Please see “In the Matter of: Special Electronic Access to Superior Court Proceedings,” as set forth in [A.O. No. 2006-9](#), where the Court recognized that “[i]t is in the public interest that people understand as fully as possible the operation of the justice system, and the courts in particular.” Individuals may attend court events as they always have. They may take notes on paper or electronically, and, if it’s not distracting or otherwise precluded by a trial judge, they may send emails and text messages during a proceeding. Subject to the parameters of Supreme Court Rule 123, they may request documents and audio or video records from the clerk concerning those proceedings. And under the proposed amendments, members of the public could still submit a

request to record or broadcast a court proceeding, and they could do so, but only if they first obtain judicial approval.

Two federal judges in the District of Arizona have concluded that there is no unlimited right to record courtroom proceedings. In *Decker v Bales*, No. CV-16-02872-PHX-SRB (02/28/2017), Judge Bolton wrote, “The Court is not aware of any controlling authority that grants Plaintiff an unfettered First Amendment right to record court proceedings or meetings.” And in *Peltz v Roberts*, No. CV-23-00094-TUC-RCC (11/09/2023), Judge Collins noted that “Plaintiffs do not identify any cases that provide a clearly established right to ‘video record’ within a courthouse absent restrictions . . .” Those restrictions are set out in Supreme Court Rules 122 and 122.1. Journalists and other individuals can record in a courtroom, but the requirements and limits for doing so are specified by rules.⁴

5. Summary of Proposed Amendments to Rules 122 and 122.1. This petition proposes substantive amendments to these rules, beginning with modifications to the titles. The modified titles delete the last three words, as follows: for Rule 122 “Use of Recording Devices ~~in a Courtroom~~,” and for Rule 122.1, “Use of Portable Electronic Devices ~~in a Courthouse~~.” That is, the proposed rules are

⁴ The federal court’s policy is quite different. Please see “[A Journalist’s Guide to the Federal Courts](#)” promulgated by the Administrative Office of the United States Courts, at page 4: “Outside these limited exceptions [such as investitures, naturalizations, and ceremonial proceedings], the media may not photograph, videotape, or record live federal court proceedings.”

organized based on how a device is being used rather than the physical location of its use. The devices that are used most often—cell phones—are capable of multiple functions and can be used to record (a Rule 122 function) as well as to access the internet, send emails and text messages, and make phone calls, among other things (Rule 122.1 functions). Under the proposed amendments, all uses of any device as a “recording device”—defined in Rule 122—would be governed by Rule 122, regardless of whether that use occurs in a courtroom or elsewhere in the courthouse. (Rule 122 currently applies to the use of recording devices in a courtroom; a new section (m) in Rule 122 would govern the use of recording devices in the courthouse.) All uses of a “portable electronic device”—which include but are not limited to accessing the internet, sending text messages or emails, and making phone calls, whether in the courtroom or the courthouse—would continue to be governed by Rule 122.1.

The proposed rules follow the restyling conventions used in other rules projects during the past decade. There are dozens of substantive changes, which are discussed in Appendix A.

The proposed amendments were not unanimously supported by Task Force members. Three members voted against the filing of this petition. One of those three members contended that removal of current Rule 122 provisions regarding personal audio recorders, along with the added restrictions on recording interviews in a

courthouse hallway, constitute a “sea change” for the mainstream media and would hamper their reporting of newsworthy events. The member opined that it is naïve to believe the proposed rule amendments will reduce harassment.

A majority of members disagreed with that view. One responded that mainstream media organizations should have no issues complying with the proposed rule amendments. Another noted that under the current rules, citizen journalists may contend that they are “news organizations” and as such, that they have the right to follow and ask questions of witnesses anywhere in the courthouse, which could lead to intimidation and harassment.

Task Force members worked diligently to achieve consensus. The great majority of members believe the proposed amendments are necessary and appropriate. The proposed amendments continue to allow electronic devices in the courthouse for recording, broadcasting, and several other purposes, but with greater court control of their use and by enhancing courthouse safety and security.

6. Conclusion. Petitioner requests this Court to:

- (a) open this petition for public comments,
- (b) permit Petitioner to file a reply after the conclusion of the public comment period,
- (c) review but then dismiss petition number R-25-0031, and
- (d) consider this petition at its August 2026 Rules Agenda.

RESPECTFULLY SUBMITTED this 7th day of January 2026.

By /s/
Hon. John R. Lopez, IV
on behalf of the Task Force

APPENDIX A

Discussion of Substantive Changes

Appendix A
Discussion of Substantive Changes

A. Proposed Amendments to Rule 122.

Rule 122(a): “Purpose.” This provision has been modified to emphasize additional and important policy considerations. The current provision provides, “This rule allows the use of recording devices ... subject to specified requirements and limitations.” The proposed provision, by comparison, says, “The rule specifies the permitted and prohibited uses of recording devices ... while allowing the court to preserve the dignity of proceedings, to ensure courthouse safety and security, and subject to specified requirements and limitations.” The proposed provision no longer includes the current second sentence: “A court must use reasonable means to inform the public of the provisions of this rule.” While providing that information to the public is still a good practice, the Task Force believes that whether the court used “reasonable means” might become contentious.

Rule 122(b): “Definitions.” In conjunction with the changes to the rule titles and the organization of subject matters noted in Part 5 of the petition, the definition of “courthouse” was relocated from Rule 122.1 to Rule 122(b).

The definition of “camera” was deleted because it is subsumed under the definition of “recording device” in subpart (b)(6). The Task Force believed that the definition of “coverage” was suggestive of traditional media and that use of the term was inapt considering other proposed amendments, and it too was deleted. The

words “coverage” and “cover” no longer appear in other sections of Rule 122; these words were replaced by a phrase such as “use of a recording device.” For the reasons discussed in this petition, the definition of a “personal audio recorder” was also deleted because those devices would be treated no differently than any other “recording device.” The definition of “courtroom” in subpart (b)(2) was expanded to include “a virtual setting” as well as a physical one.

One of the most notable changes concerns the definition of a “recording device.” The definition has been significantly broadened in recognition of technological changes that have occurred since 2013 and in anticipation of continuing changes. As proposed,

A ‘recording device’ is any device including a cell phone, camera, apparatus, or application (‘app’), whether analog or digital, mechanical or electronic, used to capture sounds or images or otherwise record, photograph, preserve, transcribe, broadcast, transmit, or stream a proceeding or that can be used with other devices to broadcast a proceeding. A recording device includes a device that uses artificial intelligence.

Recently developed applications for electronic devices can record and produce transcripts of court proceedings using artificial intelligence. Petitioner anticipates receiving public comments concerning the inclusion of those applications within the definition of “recording device.”

Rule 122(c): “Request to Use a Recording Device During a Proceeding.” If the proceeding is not a trial, the time for submitting a request would be enlarged from 48 hours to 5 court days; and if the proceeding is set on less than 7 court days’

notice (currently 72 hours' notice), then as soon as reasonably possible. These changes would allow a trial judge more time to consider a request.

The amendment to subpart (c)(3) provides that the court “must” (currently “will”) “promptly” notify the parties of a request. The court also must notify a victim’s attorney of the request, which is consistent with a requirement in Criminal Rule 1.8(v). Another amendment would require the court’s notice to specify a deadline for a party to submit an objection. Other amendments would permit the court to summarily deny an untimely request yet also would allow “granting an untimely request that would otherwise be granted if timely made.” Although a party generally must object by the deadline contained in the court’s notice of the request, subpart (c)(4) would allow a party in a family law or protective order case to object to the use of a recording device at any time. An objection must be in writing or on the record. Subpart (c)(5), like the current provision, provides that a victim or witness may object to the use of a recording device “at any time” during their appearance or testimony. The subpart contains several other amendments.

Rule 122(d): “Denial or Limitation of Request.” The current section begins by stating that “a properly submitted request for coverage should generally be approved.” The Task Force initially deleted this phrase because approval of a request results from the court’s consideration of the factors in subpart (d)(1). After further

discussion, however, the provision was retained, but without use of the word “coverage.”

The 8 factors in subpart (d)(1) are substantively unchanged, with the exceptions of factors (G) and (H), which would be modified as follows:

(G) whether the person making the request is engaged in the dissemination of news ~~to a broad community~~; and

(H) any other factor affecting the administration of justice or court security.

Consistent with the current rule, section (d) provides that a judge’s decision on a request is reviewable only by special action. Subpart (d)(2), which concerns limitation of a request, has been modified to conform to terms used or eliminated elsewhere in the rule. Subpart (d)(3) is new. The provision states, “This rule does not limit a court from recording, broadcasting, transmitting, or streaming on its own initiative.” Some Arizona courts already livestream certain proceedings.

Rule 122(e): currently, “Manner of Coverage,” and as proposed, “Conduct.” This section has been revised to focus on the people doing the recording rather than the equipment they are using. It adds that these people must avoid conduct or dress that may “disrupt courthouse operations, or compromise courthouse security.”

Rule 122(f): “Equipment.” This section removes archaic terms, such as “flash devices” and “strobe lights,” but retains the general substance of the current

provision. It has a new last sentence that provides, “No additional equipment may be used without the judge’s approval.”

Rule 122(g): “Number of Recording Devices; Pooling.” This section is substantively unchanged, including the presumptive limits on the number of devices (although the judge may approve the use of more devices) and the requirement to pool resources to limit the number of recording devices in a courtroom.

Rule 122(h): currently, “Personal Audio Recorders; Required Notice to the Court,” and as proposed, “Unauthorized Use of a Recording Device.” The proposed amendments delete provisions regarding personal audio recorders, including the entirety of current section (h). A new section (h) would expressly provide that the court may sanction violations of this rule, as follows:

Except as this rule permits, a person who uses a recording device in the courthouse or in a virtual proceeding without prior approval is in violation of this rule and is subject to sanctions, including contempt of court or criminal charges.

Rule 122(i): “Approving Use of a Recording Device for Celebratory or Ceremonial Proceedings, or While Court is Not in Session.” There is one minor change. The current rule requires the “express” permission of the presiding judge to use a recording device in a courtroom while that court is not in session. The proposed rule deletes “express.”

Rule 122(j): currently, “Recording Not Admissible as Evidence,” and as proposed, “Recording Not the Official Court Record.” The current title is

incongruent with the section's text, which allows the admission of the recording "if it is offered for another purpose." The modifications to the title, along with other edits to section (j), address that mismatch.

Rule 122(k): currently, "Prohibitions," and as proposed, "Limitations." The foregoing change makes the title more accurate. The petition also proposes a substantive change to subpart (k)(5). In addition to the current provision prohibiting the use of a recording device at a juvenile proceeding, this amendment would also apply the prohibition to A.R.S. Title 36, Chapter 4 or 5 proceedings (behavioral and mental health), and "any portion of a proceeding involving a child witness."

Rule 122(l) [new]: "Use of a Recording Device Outside of a Courtroom." The Task Force added this new section because proposed Rule 122 will govern recording not just in the courtroom, but anywhere in the courthouse. This section has 4 subparts, which include substance that's been relocated from Rule 122.1.

Subpart (l)(1) ("generally") provides that use of a recording device in areas of a courthouse other than a courtroom "must be approved by the presiding judge or the presiding judge's designee, or as otherwise provided by local administrative order."

Subpart (l)(2) ("limitations") consists of three sentences. The first sentence corresponds to current Rule 122.1(c)(2); it provides that no one may photograph or record an individual without the individual's express or implied consent. (The

current provision, by comparison, requires “express” consent.) The second sentence instructs that a judge’s permission to use a recording device in the courtroom does not authorize use of the device in other areas of the courthouse. In furtherance of the purposes of safety and security, the third sentence of this subpart provides, “Judges, clerks, court administration, or court security are authorized to limit or terminate activity that is disruptive to court operations or that compromises courthouse security.” Court security officers are not law enforcement officers; the proposed amendments provide security officers authority for enforcing these rules, which also could mitigate the need to contact local police officers for assistance.

The limitation on the use of recording devices in the courthouse caused some consternation. Prosecutors and defense counsel occasionally have offices in a courthouse and believe they should be able to use recording devices in those non-public domains. Also, parties, including but not limited to incarcerated self-represented defendants, may need to record a witness interview somewhere in the courthouse. In these and other scenarios, use of recording devices should be permitted without the need for a formal request. On the other hand, some areas, such as the clerk’s filing window, should be off-limits for recording. Furthermore, conducting interviews in a lobby or hallway, where there might be other court visitors, is probably not a good practice.

To address these concerns, members agreed to add to Rule 122 the following new subpart (1)(3):

Interviews, Evaluations, Mediations, or Depositions. An individual does not need to make a request under this rule to use a recording device to conduct an interview, evaluation, mediation, or deposition in a court-designated location.

Every courthouse should have one or more empty rooms that are beyond the security entrance, and which the court can designate for these purposes. These room designations would avoid the need for a request to record and provide a secure and private environment for these specific uses.

Subpart (1)(4) provides that the provisions of section (d) apply to requests under section (1). Section (d) provisions include the factors a judge should consider in evaluating a request to use a recording device; section (d) also allows special action review of the denial or limitation of a request.

Rule 122(m): “Other Governing Law.” Section (m) includes this new sentence: “By local administrative order, a court may adopt further reasonable limits on use of a recording device in a courthouse.” The sentence is derived from current Rule 122.1(c)(3). Some courts currently have such administrative orders. (See [Maricopa A.O. No. 2019-027](#) [In the matter of camera use in court buildings]; [Mohave A.O. No. 2019-19](#) [In the matter of use of cameras in court buildings]; and [Pinal A.O. No. 2020-00009](#) [Regulating use of photographic and video recording devices in Pinal County courthouses and other court facilities outside of courtrooms

(amending A.O. 2019-00028)].) Finally, the last three words in the last sentence of section (m) were deleted as surplusage. (“Nothing in this rule alters the obligation of any attorney to comply with the provisions of the Arizona Rules of Professional Conduct ~~governing trial publicity.~~”)

B. Proposed Amendments to Rule 122.1.

Rule 122.1(a): “Purpose.” Section (a) includes new text that further clarifies the distinction between using an electronic device to record (a Rule 122 use) and using the device for other functions under Rule 122.1:

Purpose. This rule specifies the permitted and prohibited uses of portable electronic devices in a courthouse. A portable electronic device may have the capability of functioning as a recording device as defined in Rule 122. This rule governs portable electronic devices when they are not being used as a recording device. The use of a portable electronic device as a recording device is governed by, and subject to the limitations and requirements of, Rule 122.

Rule 122.1(b): “Definitions.” As noted above, the proposed amendments would relocate the definition of “courthouse” from Rule 122.1 to Rule 122. The only remaining substantive definition in section (b) is “portable electronic device.” The definition is identical to the current definition except that as proposed, the amendment deletes “personal digital assistant” because these devices, while still in use, have been largely replaced by cell phones and are now relatively uncommon. Regardless, they are encompassed within the definition’s mention of “any similar items.” The other definitions in Rule 122(b) are incorporated in Rule 122.1 by reference.

Rule 122.1(c): currently, “Photography and Audio or Video Recording,” and as proposed, “Use of a Portable Electronic Device Outside of a Courtroom; Limitations.” The entirety of current section (c) would be deleted because its substance would now be in Rule 122. New section (c) would allow use of a portable electronic device in a courthouse, outside of a courtroom, “subject to the authority of judges, clerks, court administration, or court security to limit or terminate activity that is disruptive to court operations or that compromises courthouse security.”

Rule 122.1(d): “Jurors and Witnesses.” This section governs the use of portable electronic devices by jurors, prospective jurors, and witnesses. The substance of the current section is unchanged.

Rule 122.1(e): “Attorneys, Parties, and Members of the Public.” This section similarly does not alter the provisions of the current section, except that current subpart (e)(3) (“use of a personal audio recorder”) would be deleted.

Rule 122.1(f): currently, “Use of a Portable Electronic Device Outside a Courtroom; Limitations,” and as proposed, “Unauthorized Use of a Portable Electronic Device.” Current section (f) would be deleted because its substance has been relocated to proposed Rule 122.1(c). New section (f) incorporates the provisions of current Rule 122.1(a) relating to contempt and corresponds to proposed Rule 122(h); both sections provide for sanctions against individuals who violate the provisions of these rules.

APPENDIX B

Rule 122

(Clean and Strikethrough Versions)

Appendix B
Clean Version of Rule 122

Rule 122. Use of Recording Devices

- (a) **Purpose.** This rule specifies the permitted and prohibited uses of recording devices in a courthouse, while allowing the court to preserve the dignity of proceedings and ensure courthouse safety and security, and subject to specified requirements and limitations.
- (b) **Definitions.** The following definitions apply in this rule.
- (1) A “courthouse” includes all areas within the exterior walls of a court building, or if the court does not occupy the entire building, that portion of the building used for the administration and operation of the court. A “courthouse” also includes areas outside a court building where a judge conducts an event concerning a court case.
 - (2) A “courtroom” is an area of a courthouse or a virtual setting where a judge conducts a proceeding.
 - (3) A “judge” is a judicial officer in an appellate, superior, or limited jurisdiction court presiding over a proceeding.
 - (4) A “person” includes an individual and any entity except the court.
 - (5) A “proceeding” is an event concerning a court case conducted in a courtroom.
 - (6) A “recording device” is any device including a cell phone, camera, apparatus, or application (“app”), whether analog or digital, mechanical or electronic, used to capture sounds or images or otherwise record, photograph, preserve, transcribe, broadcast, transmit, or stream a proceeding or that can be used with other devices to broadcast a proceeding. A recording device includes a device that uses artificial intelligence.
 - (7) A “victim” has the same meaning as set out in Criminal Rules 1.4 and 39.
- (c) **Request to Use a Recording Device During a Proceeding.** Except as provided in (i), a person who wishes to use a recording device during a

proceeding must submit a written or electronic request to use a recording device during the proceeding, as follows:

- (1) ***Requirements for Submission of a Request.*** The person must submit the request to the judge who will conduct the proceeding, or to an office of the court authorized to receive requests under this rule. Submitting a request does not make that person a party to the case.
- (2) ***Time Limit for Submission of a Request:*** A person must submit a request as set forth below:
 - (A) If the specified proceeding is a trial, a person must submit a request no later than 7 court days before the trial date.
 - (B) If the proceeding is not a trial, a person must submit a request as soon as possible, and no later than 5 court days before the start of the proceeding.
 - (C) If the court schedules any proceeding on fewer than 7 court days' notice, a person must submit the request as soon as reasonably possible before the proceeding to avoid delay or interfering with it.
- (3) ***Court Action Upon Receiving a Request.*** The court must promptly notify the parties and the victim's attorney, if any, in writing of its receipt of a request to use a recording device. The court's notice must specify a deadline for submitting an objection. The judge must promptly hold a hearing if the judge intends to deny a timely request or a portion of the request, or if a party objects to a request. The judge may deny an untimely request without conducting a hearing. This rule does not preclude a judge from granting an untimely request that would otherwise be granted if it were timely made.
- (4) ***Time for a Party to Object to a Request.***
 - (A) **Family Law and Protective Order Cases.** A party in a family law case, or a protective order case as defined in Rule 4 of the Arizona Rules of Protective Order Procedure, may object to the use of a recording device at any time.

- (E) the adequacy of the court's physical facilities;
- (F) the timeliness of the request under (c)(2);
- (G) whether the person making the request is engaged in the dissemination of news; and
- (H) any other factor affecting the administration of justice or court security.

(2) ***Limitation of Request.*** A judge may allow use of a recording device as requested or may, after making specific, on-the-record findings based on the factors in (d)(1), impose limitations, including the following orders:

- (A) no one may record, photograph, broadcast, transmit, or stream a criminal defendant, a law enforcement officer, or a victim;
- (B) the person using the recording device must effectively obscure the face and identity of a party, victim, or witness, or that there be only audio of the testimony of a party, victim, or witness; and
- (C) prohibiting use of a recording device during the testimony of a party, victim, or witness upon a determination that use of a recording device would have a substantial adverse impact on that person or the person's testimony.

(3) ***Recording, Broadcasting, Transmitting, or Streaming on the Court's Initiative.*** This rule does not limit a court from recording, broadcasting, transmitting, or streaming on its own initiative.

(e) **Conduct.** All persons and affiliated individuals using a recording device must avoid conduct or dress that may disrupt or detract from the dignity of the proceeding, disrupt courthouse operations, or compromise courthouse security. To further the interests of justice, the judge may order a restriction or cessation of the use of a recording device in a courthouse or during a virtual proceeding.

(f) **Equipment.** Recording devices and any other equipment must be unobstructive as possible and must not produce distracting sounds or otherwise disrupt the proceeding. The judge may designate the placement of recording devices and personnel. All recording devices and personnel must be

restricted to the designated area. Recording devices must not be moved about the courtroom while court is in session. A person may not connect equipment to an existing courtroom electronic system or digital recording system without the judge's approval. A person must hide wiring as much as possible, and wiring must not cause an inconvenience or a hazard. Only equipment approved by the judge may be used.

- (g) Number of Recording Devices; Pooling.** The presumptive limits to recording devices are one microphone and audio recording device, or one video camera and one still camera, but the judge conducting the proceeding may approve a person's request to use additional recording devices. If a judge approves requests by more than one person to cover a proceeding, the judge may require those persons to pool their resources to limit the number of recording devices in the courtroom. Those persons have the responsibility to settle their own disputes, to facilitate pooling as necessary, and to implement procedures that meet the assigned judge's approval before any recording and without disruption to the court.
- (h) Unauthorized Use of a Recording Device.** Except as this rule permits, a person who uses a recording device in the courthouse or in a virtual proceeding without prior approval is in violation of this rule and is subject to sanctions, including contempt of court or criminal charges.
- (i) Approving Use of a Recording Device for Celebratory or Ceremonial Proceedings, or While Court is Not in Session.** Notwithstanding this rule's provisions, a person may orally request, and a judge may orally approve, use of a recording device in a courtroom to photograph or to record a celebratory or ceremonial proceeding. If a person wishes to use a recording device in any courtroom when that courtroom is not in session, before using the device, the person must obtain the permission of the presiding judge of that jurisdiction, or the permission of an office of the court authorized by the presiding judge to approve such a request.
- (j) Recording Not the Official Court Record.** Unless the court orders otherwise, no video, photograph, or audio reproduction of a proceeding that is obtained under this rule will be the official court record of that proceeding. It may be admissible at that or any other proceeding if it is offered for a proper purpose.

(k) **Limitations.** Use of a recording device is subject to the following limitations:

- (1) ***No Use of Recording Devices While the Judge is Off the Bench.*** A person may use a recording device in a courtroom only when the judge is on the bench, and use of a recording device must terminate when the judge leaves the bench or court is not in session, except as provided in (i).
- (2) ***Not Showing Jurors.*** Recording devices must be placed to avoid showing jurors in any manner. Recordings or broadcasts of jurors' statements or conversations are also prohibited, except that a juror may expressly consent to an interview after the jury has been discharged.
- (3) ***No Attorney Conferences.*** Recordings or broadcasts of bench conferences between a judge and counsel, or off-the-record conferences between attorneys and their clients, or between attorneys, anywhere in the courthouse are prohibited.
- (4) ***No Readable Documents.*** A person may not use a recording device to take readable images of the contents of documents or other materials, whether in electronic or other form, that are located within the courtroom without express consent.
- (5) ***Prohibited Proceedings.*** Use of a recording device at a juvenile court proceeding, A.R.S. Title 36, Chapter 4 or 5 proceedings, or any portion of a proceeding involving a child witness are prohibited except as allowed by Arizona law, or as provided in (i).

(l) **Use of a Recording Device Outside of a Courtroom.**

- (1) ***Generally.*** Use of a recording device in areas of the courthouse other than the courtroom must be approved by the presiding judge or the presiding judge's designee, or as otherwise provided by local administrative order.
- (2) ***Limitations.*** No one may photograph or record an individual without that individual's express or implied consent. A judge's permission to use a recording device in the courtroom does not authorize use of the device in other areas of the courthouse. Judges, clerks, court administration, or court security are authorized to limit or terminate activity that is disruptive to court operations or that compromises courthouse security.

- (3) ***Interviews, Evaluations, Mediations, or Depositions.*** An individual does not need to make a request under this rule to use a recording device to conduct an interview, evaluation, mediation, or deposition in a court-designated location.
- (4) ***Applicability of (d).*** The provisions of (d) apply to a request under (1).
- (m) **Other Governing Law.** By local administrative order, a court may adopt further reasonable limits on use of a recording device in a courthouse. A person requesting to use a recording device under this rule is also subject to any such administrative order. The law generally applicable to inclusion or exclusion of the press or the public at court proceedings or during the testimony of a particular witness applies to persons who submit a request under this rule. Nothing in this rule alters the obligation of any attorney to comply with the provisions of the Arizona Rules of Professional Conduct.

Strikethrough/Underline Version of Rule 122

Rule 122. Use of Recording Devices ~~in a Courtroom~~

- (a) **Purpose.** This rule ~~allows~~ specifies the permitted and prohibited ~~the~~ uses of recording devices in a ~~courtroom~~ courthouse, while allowing the court to preserve the dignity of proceedings and ensure courthouse safety and security, and subject to specified requirements and limitations. ~~A court must use reasonable means to inform the public of the provisions of this rule.~~
- (b) **Definitions.** The following definitions apply in this rule. ~~A term defined in the singular includes the plural.~~
- (1) A “courthouse” includes all areas within the exterior walls of a court building, or if the court does not occupy the entire building, that portion of the building used for the administration and operation of the court. A “courthouse” also includes areas outside a court building where a judge conducts an event concerning a court case.
- ~~(1) A “camera” is an electronic or mechanical device used to photograph, record, or broadcast still or moving images.~~
- (2) A “courtroom” is an area of a “courthouse,” ~~which is defined in Rule 122.1,~~ or a virtual setting where a judge conducts a proceeding.
- ~~(3) “Cover” and “coverage” refer to a person's use of a recording device during a proceeding.~~
- (3) A “judge” is a judicial officer in an appellate, superior, or limited jurisdiction court presiding over a proceeding.
- (4) A “person” includes an individual and any ~~organization~~ entity except the court.
- ~~(6) A “personal audio recorder” is a device used to record audio only, and that is on, held by, or immediately next to, the person who is operating the device.~~
- (5) A “proceeding” is an event concerning a court case ~~that takes place~~ conducted in a courtroom.

(6) A “recording device” is ~~an electronic or mechanical apparatus and related equipment~~ any device including a cell phone, camera, apparatus, or application (“app”), whether analog or digital, mechanical or electronic, used to capture and store sounds or images, or both, or from which a person can retrieve or broadcast sound or images. A camera, a smart phone, and an audio recorder are examples of recording devices. or otherwise record, photograph, preserve, transcribe, broadcast, transmit, or stream a proceeding or that can be used with other devices to broadcast a proceeding. A recording device includes a device that uses artificial intelligence.

(7) A “victim” has the same meaning as set out in Criminal Rules 1.4 and 39 of the Rules of Criminal Procedure.

(c) **Request to Cover Use a Recording Device During a Proceeding.** Except as provided in ~~paragraphs (h) and (i) of this rule,~~ a person who wishes to use a recording device during a proceeding must submit a written or electronic request to ~~cover~~ use a recording device during the proceeding, as follows:-

(1) **Requirements for Submission of a Request:-** The person must submit the request to the judge who will conduct the proceeding, or to an office of the court authorized to receive requests under this rule. ~~A person who submits a request to cover a proceeding has standing on the request, but the submission of a request does not confer upon that person the status of a party to the case.~~ Submitting a request does not make that person a party to the case.

(2) **Time Limit for Submission of a Request:-** A person must submit a request ~~sufficiently in advance of the proceeding to allow the judge to consider it in a timely manner~~ as set forth below:-

(A) If the specified proceeding is a trial, a person must submit a request ~~at least~~ no later than seven 7 calendar court days before the trial date.

(B) If the proceeding is not a trial, a person must submit a request as soon as possible, and no ~~less~~ later than forty-eight hours 5 court days before the start of the proceeding.

(C) If the court schedules any proceeding on ~~less~~ fewer than seventy-two hours 7 court days’ notice, a person must ~~file~~ submit the

request as soon as reasonably possible before the proceeding as ~~not~~ to avoid delay or interfering with it.

- (3) ***Court Action Upon Rreceiving a Rrequest.*** The court ~~will~~ must promptly notify the parties and the victim's attorney, if any, in writing of its receipt of a request ~~for coverage~~ to use a recording device. The court's notice must specify a deadline for submitting an objection. The judge ~~will~~ must promptly hold a hearing if the judge intends to deny ~~the~~ a timely request or a portion of the request, or if a party objects to a request. The judge may deny an untimely request without conducting a hearing. This rule does not preclude a judge from granting an untimely request that would otherwise be granted if it were timely made.
- (4) ***Time for a Party to Object to a Rrequest.*** A party ~~waives an objection to a request for coverage of a proceeding if the party does not object to the request in writing or on the record no later than the start of the proceeding.~~
- (A) ***Family Law and Protective Order Cases.*** A party in a family law case, or a protective order case as defined in Rule 4 of the Arizona Rules of Protective Order Procedure, may object to the use of a recording device at any time.
- (B) ***Other Cases.*** A party in a case other than those identified in (c)(4)(A) waives any objection to a request if the party does not object to the request within the time specified in the court's notice under (c)(3).
- (C) ***Form of Objection.*** A party's objection to a request to use a recording device must be in writing or on the record.
- (5) ***Time for a Victim or Witness to Object to a Rrequest.*** Victims or witnesses may object to ~~coverage~~ use of a recording device at any time during of their appearance or testimony ~~at any time~~. Any objection must be in writing or on the record. The prosecutor's office is responsible for notifying victims and the prosecutor's witnesses of ~~coverage~~ a request to use a recording device, and their right to object to ~~coverage~~ use of that device, prior before to the victims' appearances or the witnesses' testimony at the proceeding. The prosecutor may submit an objection for the victim or the witness. Other parties who call witnesses to testify

are responsible for notifying their witness of ~~coverage~~ a request to use, or the use of, a recording device, and the witness's right to object to ~~coverage~~ use of the device, ~~prior to~~ before the witness's testimony.

(d) **Denial or Limitation of ~~Coverage~~ Request.** A properly submitted request ~~for coverage~~ should generally be approved, but a judge may deny or may limit ~~the a request as provided in this paragraph~~ under (c) or (1). A judge's decision on a ~~coverage~~ request to use a recording device, or on an objection to ~~coverage~~ a request, is reviewable only by special action.

(1) ***Denial of ~~coverage~~ Request.*** A judge ~~on his or her own motion~~ may deny a request ~~for coverage, or may sustain a party's objection to coverage,~~ only after making specific, on-the-record findings that there is a likelihood of harm arising from one or more of the following factors, and that the harm outweighs the benefit ~~of coverage~~ to the public:

- (A) the impact ~~of coverage~~ upon the right of any party to a fair hearing or trial;
- (B) the impact ~~of coverage~~ upon the right of privacy of any party, victim, or witness;
- (C) the impact ~~of coverage~~ upon the safety and well-being of any party, victim, witness, or juror;
- (D) the likelihood that ~~coverage~~ use of a recording device would distract participants or ~~that coverage~~ would disrupt or detract from the dignity of a proceeding;
- (E) the adequacy of the court's physical facilities ~~of the court~~;
- (F) the timeliness of the request ~~pursuant to paragraph under (c)(2) of this rule~~;
- (G) whether the person making the request is engaged in the dissemination of news ~~to a broad community~~; and
- (H) any other factor affecting the administration of justice or court security.

(2) ***Limitation of ~~coverage~~ Request.*** Upon ~~his or her own motion or upon the request of a party, victim, or witness,~~ a judge may allow ~~coverage~~

use of a recording device as requested or may, after making specific, on-the-record findings based on the factors in paragraph (d)(1), impose limitations, including the following orders as follows:

- (A) ~~order that no one may photograph, record, photograph, or broadcast, transmit, or stream a criminal defendant, a law enforcement officer, or a victim in the courtroom;~~
- (B) ~~order that video coverage~~ the person using the recording device must effectively obscure the face and identity of that a party, victim, or witness, or that there be only audio coverage of the testimony of a party, victim, or witness; and
- (C) ~~prohibiting coverage use of a recording device during of the testimony of that a party, victim, or witness upon a determination that coverage use of a recording device would have a substantial adverse impact upon that witness person or the person's or his or her testimony.~~

(3) **Recording, Broadcasting, Transmitting, or Streaming on the Court's Initiative.** This rule does not limit a court from recording, broadcasting, transmitting, or streaming on its own initiative.

- (e) **Manner of Coverage Conduct.** ~~The judge will preserve the dignity of the proceeding by designating the placement of equipment and personnel for photographing, recording, or broadcasting the proceeding, and all equipment and personnel will be restricted to the designated area. Recording devices may not be moved about the courtroom while court is in session. All persons and affiliated individuals engaged in the coverage using a recording device must avoid conduct or dress that may disrupt or detract from the dignity of the proceeding, disrupt courthouse operations, or compromise courthouse security. To further the interests of justice, t~~ The judge may order a restriction or cessation of coverage the use of a recording device in a courthouse or during a virtual proceeding in furtherance of the interests of justice.
- (f) **Equipment.** Recording devices and any other equipment must be unobstructive as possible and must not produce distracting sounds or otherwise disrupt the proceeding. The judge may designate the placement of recording devices and personnel. All recording devices and personnel must be restricted to the designated area. Recording devices must not be moved about

~~the courtroom while court is in session. A person must not install, move, or take recording equipment, other than a personal audio recorder, from the courtroom during a proceeding. A person may not connect equipment to an existing courtroom electronic system or digital recording system without the judge's approval. A person must hide wiring as much as possible, and wiring must not cause an inconvenience or a hazard. Only equipment approved by the judge may be used. A person may connect equipment used to provide coverage to an existing courtroom electronic system, if possible, but a person must not connect equipment to a court's digital recording system without the judge's express approval. A person must not bring flash devices, strobe lights, or other artificial lights of any kind into the courtroom. If a person wishes to use additional standard light fixtures or higher wattage light bulbs, additional microphones, or other modifications or improvements concerning lighting or sound, the person must submit this information in the request under paragraph (c). The judge may direct whatever modifications or improvements are deemed necessary, but the judge may not require use of public funds to make or to maintain any such modifications or improvements. Microphones, cameras, and other equipment used for coverage must be as unobtrusive as recording devices in general use in the community where the courtroom is located, and must not produce distracting sounds or otherwise disrupt the proceeding.~~

- (g) **Number of Recording Devices; Pooling.** ~~A request submitted under paragraph (c) may ask the judge to approve audio coverage, video camera coverage, or coverage by still camera. The presumptive limits to recording devices are one microphone and audio recording device for audio coverage, or one video camera and one still camera, but the judge conducting the proceeding has discretion to may approve a person's request to use additional recording devices. If a judge approves requests by more than one person to cover a proceeding, the judge may require those persons must to pool their resources to limit the number of recording devices in the courtroom, to the number approved by the judge. Those persons have the responsibility to settle their own disputes, to facilitate pooling as necessary, and to implement procedures that meet the assigned judge's approval of the assigned judge prior to before any coverage recording and without disruption to the court.~~
- (h) **Unauthorized Use of a Recording Device.** Except as this rule permits, a person who uses a recording device in the courthouse or in a virtual

proceeding without prior approval is in violation of this rule and is subject to sanctions, including contempt of court or criminal charges.

- ~~(h) **Personal Audio Recorders; Required Notice to the Court.** A person may use a personal audio recorder during a proceeding, but the person must notify the judge or the judge's staff prior to using the device. A person who uses a personal audio recorder is not required to submit a request under paragraph (e) of this rule, but a person who wishes to record or broadcast the audio portion of a proceeding with a device that is not on the person must do so. The use of a personal audio recorder must not be obtrusive, distracting, or otherwise prohibited, and use is subject to the prohibitions of paragraph (k) of this rule.~~
- (i) **Approving Use of a Recording Device for Celebratory or Ceremonial Proceedings, or While Court is Not in Session.** Notwithstanding this rule's ~~other provisions of this rule,~~ a person may ~~verbally~~ orally request, and a judge may ~~verbally~~ orally approve, use of a recording device in a courtroom to photograph or to record a celebratory or ceremonial proceeding. If a person wishes to use a recording device in any courtroom when that courtroom is not in session, ~~prior to~~ before using the device, the person must obtain the ~~express~~ permission of the presiding judge of that jurisdiction, or the permission of ~~or~~ an office of the court authorized by the presiding judge to approve such a requests ~~under this paragraph.~~
- (j) **Recording Not Admissible as Evidence the Official Court Record.** Unless the court orders otherwise, Nno video, photograph, or audio reproduction of a ~~judicial~~ proceeding that is obtained ~~pursuant to~~ under this rule ~~may~~ will be used to ~~modify or supplement~~ the official court record of that proceeding. It may be ~~nor~~ is it admissible at that or any ~~subsequent~~ other proceeding ~~unless if it is offered for a proper another purpose allowed under the Arizona Rules of Evidence.~~
- (k) **Prohibitions Limitations.** A person is not permitted to photograph, record, or broadcast a proceeding in the following circumstances Use of a recording device is subject to the following limitations:
- (1) ***No Use of Recording Devices While the Judge is Off the Bench.*** A person may use a recording device in a courtroom only when the judge is on the bench, and use of a recording device must terminate when the

judge leaves the bench or court is not in session, except as provided in ~~paragraph (i)~~.

- (2) **Not Showing Jurors.** ~~Cameras~~ Recording devices must be placed to avoid showing jurors in any manner. ~~Audio~~ Recordings or broadcasts of jurors' statements or conversations are also prohibited, except that a juror may expressly consent to an interview after the jury has been discharged.
- (3) **No Attorney Conferences.** ~~Audio~~ Recordings or broadcasts of bench conferences between a judge and counsel, or off-the-record conferences between attorneys and their clients, or between attorneys, anywhere in the courthouse are prohibited.
- (4) **No Readable Documents.** A person may not use a ~~camera~~ recording device to take readable images of the contents of documents or other materials, whether in electronic or other form, that are located ~~at counsel tables, the judge's bench, the work area of judicial staff, or the jury box~~ within the courtroom without express consent.
- (5) **No Prohibited Juvenile Proceedings.** ~~Photographing, recording, or broadcasting of~~ Use of a recording device at a juvenile court proceeding, A.R.S. Title 36, Chapter 4 or 5 proceedings, or any portion of a proceeding involving a child witness are prohibited except ~~is only~~ as allowed by Arizona law, or as provided in ~~paragraph (i)~~.

(I) Use of a Recording Device Outside of a Courtroom.

- (1) Generally.** Use of a recording device in areas of the courthouse other than the courtroom must be approved by the presiding judge or the presiding judge's designee, or as otherwise provided by local administrative order.
- (2) Limitations.** No one may photograph or record an individual without that individual's express or implied consent. A judge's permission to use a recording device in the courtroom does not authorize use of the device in other areas of the courthouse. Judges, clerks, court administration, or court security are authorized to limit or terminate activity that is disruptive to court operations or that compromises courthouse security.

- (3) Interviews, Evaluations, Mediations, or Depositions.** An individual does not need to make a request under this rule to use a recording device to conduct an interview, evaluation, mediation, or deposition in a court-designated location.
- (4) Applicability of (d).** The provisions of (d) apply to a request under (1).
- (m) Other Governing Law.** By local administrative order, a court may adopt further reasonable limits on use of a recording device in a courthouse. A person requesting to use a recording device under this rule is also subject to any such administrative order. ~~whose request under paragraph (e) of this rule has been approved may photograph, record in, or broadcast from, locations in a courthouse other than a courtroom as provided in Supreme Court Rule 122.1.~~ The law generally applicable to inclusion or exclusion of the press or the public at court proceedings or during the testimony of a particular witness applies to persons who submit a request ~~or notice~~ under this rule. Nothing in this rule alters the obligation of any attorney to comply with the provisions of the Arizona Rules of Professional Conduct ~~governing trial publicity.~~

APPENDIX C

Rule 122.1

(Clean and Strikethrough Versions)

Appendix C
Clean Version of Rule 122.1

Rule 122.1. Use of Portable Electronic Devices

- (a) **Purpose.** This rule specifies the permitted and prohibited uses of portable electronic devices in a courthouse. A portable electronic device may have the capability of functioning as a recording device as defined in Rule 122. This rule governs portable electronic devices when they are not being used as a recording device. The use of a portable electronic device as a recording device is governed by, and subject to the limitations and requirements of, Rule 122.
- (b) **Definitions.**
- (1) A “portable electronic device” is a mobile device capable of electronically storing, accessing, or transmitting information. The term encompasses, among other things, a transportable computer of any size, including a tablet, a notebook, and a laptop; a smart phone, a cell phone, or other wireless phone; a camera and other audio or video recording devices; other devices that provide internet access; and any similar items.
- (2) This rule incorporates the definitions in Rule 122(b).
- (c) **Use of a Portable Electronic Device Outside of a Courtroom; Limitations.** Except as provided in (d) and (e), a person may use a portable electronic device in a courthouse, subject to the authority of judges, clerks, court administration, or court security to limit or terminate activity that is disruptive to court operations or that compromises courthouse security.
- (d) **Jurors and Witnesses.** The following restrictions apply to use of portable electronic devices by jurors, including prospective jurors, and by witnesses.
- (1) **Jurors.** Jurors must turn off their portable electronic devices while present in a courtroom and while present in a jury room during the jury's deliberations and discussions concerning a case. Jurors may use their portable electronic devices for allowable purposes during breaks.
- (2) **Witnesses.** A witness must silence any portable electronic device while in a courtroom and may use a portable electronic device while testifying only with permission of a judge.

- (e) **Attorneys, Parties, and Members of the Public.** The following provisions apply to use of portable electronic devices in a courtroom by attorneys, parties, and members of the public. Any allowed use of a portable electronic device under this section is subject to the authority of a judge to terminate activity that is disruptive or distracting to a court proceeding, or that is otherwise contrary to the administration of justice.
- (1) ***Allowed Uses.*** Attorneys, parties, and members of the public may use a portable electronic device in a courtroom to retrieve or to store information, to access the Internet, and to send and receive text messages or information.
- (2) ***Prohibited Uses.*** A portable electronic device may not be used, without permission of the court, to make or to receive telephone calls or for other audible functions while court is in session, and attorneys, parties, and members of the public must silence portable electronic devices while in the courtroom.
- (f) **Unauthorized Use of a Portable Electronic Device.** A person who uses a portable electronic device in violation of this rule is subject to sanctions, including contempt of court or criminal charges.

Strikethrough/Underline Version of Rule 122.1

Rule 122.1. Use of Portable Electronic Devices ~~in a Courthouse~~

- (a) **Purpose.** This rule specifies the permitted and prohibited uses of portable electronic devices in a courthouse. ~~A court must use reasonable means to advise courthouse visitors of the provisions of this rule. A violation of this rule may be punishable as contempt.~~ A portable electronic device may have the capability of functioning as a recording device as defined in Rule 122. This rule governs portable electronic devices when they are not being used as a recording device. The use of a portable electronic device as a recording device is governed by, and subject to the limitations and requirements of, Rule 122.
- (b) **Definitions.** ~~The following definitions apply in this rule:~~
- (1) A “portable electronic device” is a mobile device capable of electronically storing, accessing, or transmitting information. The term encompasses, among other things, a transportable computer of any size, including a tablet, a notebook, and a laptop; a smart phone, a cell phone, or other wireless phone; a camera and other audio or video recording devices; ~~a personal digital assistant (PDA);~~ other devices that provide internet access; and any similar items.
- (2) This rule incorporates the definitions in Rule 122(b).
- ~~(2) A “courthouse” includes all areas within the exterior walls of a court building, or if the court does not occupy the entire building, that portion of the building used for the administration and operation of the court. A “courthouse” also includes areas outside a court building where a judge conducts an event concerning a court case.~~
- ~~(3) **Other Definitions:** This rule incorporates other definitions found in Supreme Court Rule 122(b).~~
- (c) **Use of a Portable Electronic Device Outside of a Courtroom; Limitations.** Except as provided in (d) and (e), a person may use a portable electronic device in a courthouse, subject to the authority of judges, clerks, court administration, or court security to limit or terminate activity that is disruptive to court operations or that compromises courthouse security.

~~(d) **Photography and Audio or Video Recording.** Photography, audio recording, and video recording in a courthouse are permitted, but the following restrictions apply:~~

~~(1) ***In a Courtroom:*** In a courtroom, no one may use a portable electronic device to take photographs or for audio or video recording unless that use is allowed under Rule 122.~~

~~(2) ***Outside a Courtroom:*** In areas of a courthouse other than courtrooms, no one may photograph or record an individual without that individual's express consent.~~

~~(3) ***Local Orders:*** By local administrative order, a court may adopt further reasonable limits on photography and audio or video recording in a courthouse that are not inconsistent with this rule or with Rule 122.~~

(d) **Jurors and Witnesses.** The following restrictions apply to use of portable electronic devices by jurors, including prospective jurors, and by witnesses.

(1) ***Jurors.*** Jurors must turn off their portable electronic devices while present in a courtroom and while present in a jury room during the jury's deliberations and discussions concerning a case. Jurors may use their portable electronic devices for allowable purposes during breaks.

(2) ***Witnesses.*** A witness must silence any portable electronic device while in a courtroom; and may use a portable electronic device while testifying only with permission of a judge.

(e) **Attorneys, Parties, and Members of the Public.** The following provisions apply to use of portable electronic devices in a courtroom by attorneys, parties, and members of the public. Any allowed use of a portable electronic device under this ~~paragraph~~ section is subject to the authority of a judge to terminate activity that is disruptive or distracting to a court proceeding, or that is otherwise contrary to the administration of justice.

(1) ***Allowed Uses.*** Attorneys, parties, and members of the public may use a portable electronic device in a courtroom to retrieve or to store information, to access the Internet, and to send and receive text messages or information.

(2) ***Prohibited Uses.*** A portable electronic device may not be used, without permission of the court, to make or to receive telephone calls

or for other audible functions while court is in session, and attorneys, parties, and members of the public must silence portable electronic devices while in the courtroom.

~~(3) *Use of a Personal Audio Recorder:* Attorneys, parties, and members of the public may use a personal audio recorder in a courtroom only as provided by Rule 122.~~

(f) **Unauthorized Use of a Portable Electronic Device.** A person who uses a portable electronic device in violation of this rule is subject to sanctions, including contempt of court or criminal charges.

~~(f) **Use of a Portable Electronic Device Outside a Courtroom; Limitations.** Except as provided in paragraphs (c), (d) and (e) of this rule, a person may use a portable electronic device in a courthouse, subject to the authority of judges, Clerks of the Court, or court administrators to limit or terminate activity that is disruptive to court operations or that compromises courthouse security.~~