

1 ANDREW P. THOMAS
2 MARICOPA COUNTY ATTORNEY
(FIRM STATE BAR NO. 0003200)

3 PHILIP J. MACDONNELL
4 CHIEF DEPUTY COUNTY ATTORNEY
5 SALLY WOLFGANG WELLS
6 CHIEF ASSISTANT COUNTY ATTORNEY
7 301 WEST JEFFERSON STREET, SUITE 800
8 PHOENIX, ARIZONA 85003
9 TELEPHONE: (602) 506-3800
(STATE BAR NUMBERS 003813 AND 009894)

10
11 IN THE SUPREME COURT OF THE STATE OF ARIZONA

12 IN THE MATTER OF:

13 PETITION TO AMEND RULES 1, 4, AND 6
14 ARIZONA RULES OF PROCEDURE IN
15 TRAFFIC CASES AND BOATING CASES,
AND RULE 29, RULES OF THE ARIZONA
SUPREME COURT

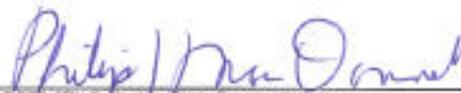
R-07-0015

MARICOPA COUNTY ATTORNEY'S
COMMENTS TO PETITION TO AMEND
RULES 1, 4, AND 6 ARIZONA RULES OF
PROCEDURE IN TRAFFIC CASES AND
BOATING CASES, AND RULE 29, RULES OF
THE ARIZONA SUPREME COURT

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17 The Maricopa County Attorney hereby comments to, and opposes, the Petition to Amend Rules 1,
18 4, and 6 Arizona Rules of Procedure in Traffic Cases and Boating Cases, and Rule 29, Rules of the
19 Arizona Supreme Court.

20 Respectfully submitted this 21st day of May, 2008.

21 ANDREW P. THOMAS
22 MARICOPA COUNTY ATTORNEY

23
24 By: 
25 PHILIP J. MACDONNELL
CHIEF DEPUTY COUNTY ATTORNEY

26 SALLY WOLFGANG WELLS
27 CHIEF ASSISTANT COUNTY ATTORNEY

1 The Maricopa County Attorney's Office ("MCAO") generally supports efforts to recognize
2 electronically filed documents and scanned images of documents filed in paper form as original
3 documents of record. However, MCAO opposes the corresponding intention to allow the destruction of
4 certain paper records that contain proofs or evidence that may later be needed to prove the identity of a
5 person convicted, e.g., a sentencing document with a fingerprint attached. Most scanning devices do
6 not sufficiently record details of fingerprints or handwriting so that the scanned document may be used
7 later to prove identity.
8

9
10 MCAO recently inquired about the quality of scanning necessary to preserve identifying
11 characteristics, specifically fingerprints. We learned that OnBase, the system used in Maricopa County,
12 scans documents at a level of 300 DPI. That level is fine for documents, but it is insufficient for
13 fingerprint scanning. A level of 900 DPI is recommended for useable fingerprint scanning. Although
14 we have not been able to thoroughly survey this issue, it is clear that regular document scanning in
15 Maricopa County will not produce useable records for purposes of proving prior convictions.
16

17 Because Arizona's legislature has created a large number of felony and misdemeanor crimes that
18 rely on proof of lower court convictions, this issue is of vital importance to public safety. Some of the
19 crimes that require such evidence are:

- 20 1. A.R.S. § 28-1383: Aggravated driving or actual physical control while under the influence.
- 21 2. A.R.S. § 28-1381(E): Driving or actual physical control while under the influence with a
22 prior conviction.
- 23 3. A.R.S. § 28-708(B): Racing on highways with a prior conviction.
- 24 4. A.R.S. § 28-695(D): Aggressive driving with a prior conviction.
- 25 5. A.R.S. § 28-693(D): Reckless driving with a prior conviction.
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- 27
- 28

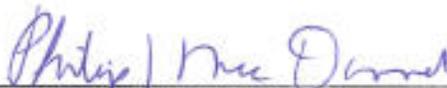
1 Moreover, sentencing ranges are significantly affected by the proof of prior felony convictions after a
2 trial conviction.

3 Other types of documentary evidence that contain original handwriting or identification evidence
4 that cannot be adequately translated by current scanning procedures may also need to be preserved as
5 part of the court record. MCAO's objection is in no way intended to create an obstacle to the Strategic
6 Agenda for Arizona's Courts in Providing Access to Swift and Fair Justice, but justice cannot be
7 accomplished if the proposed rule amendment makes proving prior convictions even more difficult than
8 it is today.
9

10 MCAO urges that the court delay adoption of these proposed amendments until the issue of
11 proving fingerprint identification can be examined further.
12

13 Respectfully submitted this 20th of May, 2008.

14 ANDREW P. THOMAS
15 MARICOPA COUNTY ATTORNEY

16
17 BY: 
18 PHILIP J. MACDONNELL
19 CHIEF DEPUTY COUNTY ATTORNEY

20 SALLY WOLFGANG WELLS
21 CHIEF ASSISTANT COUNTY ATTORNEY
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1 Copies of the forgoing mailed
2 this 20 day of May, 2008 to:

3 Clerk of the Court
4 Arizona Supreme Court

5 Judge R. Michael Traynor, Chair
6 Committee on Limited Jurisdiction Courts
7 Chandler Municipal Court
8 200 E. Chicago St.
9 Chandler, Arizona 85225-2176

10 Stewart Bruner
11 ITD, Supreme Court of Arizona
12 1501 W. Washington
13 Phoenix, AZ 85007
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