

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

December 1, 2016

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by APAAC Chair Sheila Polk on Thursday, December 1, 2016, at 2:15 p.m. at the Carefree Resort and Conference Center, 37220 Mule Train Road, Carefree, Arizona.

COUNCIL MEMBERS PRESENT

Sheila Polk	APAAC Chair, Yavapai County Attorney
Brad Carlyon	APAAC Vice-Chair, Navajo County Attorney
Kenneth Angle	Graham County Attorney (<i>at 3:20 p.m.</i>)
Brad Beauchamp	Gila County Attorney
Ryan Glover	Glendale City Prosecutor (telephonic)
Brian McIntyre	Interim Cochise County Attorney
Alan Merritt	Tucson City Prosecutor (telephonic)
Bill Montgomery	Maricopa County Attorney
Derek Rapier	Greenlee County Attorney
Tony Rogers	La Paz County Attorney
Tobin Sidles	Oro Valley Town Prosecutor
Jon Smith	Yuma County Attorney (telephonic)
Matt Smith	Mohave County Attorney (telephonic)
Lando Voyles	Pinal County Attorney
Michael Whiting	Apache County Attorney

COUNCIL MEMBERS PRESENT BY PROXY

John Belatti	Mesa City Prosecutor Proxy Sheila Polk
Mark Brnovich	Arizona Attorney General Proxy Paul Ahler
David Byers	Arizona Supreme Court Administrative Director Proxy Amy Love
Vicki Hill	Phoenix City Prosecutor Proxy Will Gonzalez (telephonic)
Barbara LaWall	Pima County Attorney Proxy Amelia Cramer
George Silva	Santa Cruz County Attorney Proxy Liliana Ortega

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Emily Jurmu	Legislative and Communication Liaison
Diana Cooney	Office Manager
Elizabeth Iniguez-Reyna	Meeting and Technology Coordinator

GUESTS PRESENT

Scott Bennett	Chief Deputy Graham County Attorney (<i>at 2:55 p.m.</i>)
Jon Eliason	Deputy Maricopa County Attorney
Jeremy Ford	Deputy Greenlee County Attorney

Jerry Landau
Kathleen Mayer
Jill Messing
William (Bill) Ring
Dr. Neil Websdale

Director of Government Affairs, Arizona Supreme Court
Legislative Liaison, Pima County Attorney's Office
Associate Professor, Arizona State University (*until 2:45 p.m.*)
Coconino County Attorney-Elect
Director, Family Violence Institute of Northern
Arizona University (*until 2:45 p.m.*)

CONSENT AGENDA

Ms. Sheila Polk presented the consent agenda, including minutes from the October 7, 2016, Council meeting, for approval. Mr. Bill Montgomery made a motion, seconded by Mr. Tobin Sidles, to approve the consent agenda. Motion carried.

LETHALITY ASSESSMENT WORKING GROUP UPDATE

Co-chairs of the APAAC Lethality Assessment Working Group, Ms. Amelia Cramer and Mr. Jon Eliason, provided an update of the group's work to date. Mr. Eliason introduced a presentation by Dr. Neil Websdale and Dr. Jill Messing, who shared the research they used to establish the two-tier risk assessment incorporated in the agenda attachments provided. Ms. Cramer noted the attachments are titled, "Intimate Partner Risk Assessment" which represents a change in the proposed legislative language, replacing "Domestic Partner Lethality Assessment". Ms. Cramer also circulated the working group's draft Rules Petition to Amend Appendix to Arizona Rules of Criminal Procedure for Council consideration and approval.

Ms. Cramer made a motion, seconded by Mr. Montgomery, that Council accept the working group's recommendations and submit the proposed Rules Petition, as drafted, along with the APRAIS protocols and Form 4-Release Questionnaire Addendum, pending input from Dr. Websdale and Dr. Messing on whether to amend question 12 to include animals, as requested by Ms. Kathleen Mayer. Discussion followed and inquiry was made of Dr. Websdale and Dr. Messing, who concurred that the evidence and scientific data do not support amending question 12 as suggested. Motion carried, with Ms. Amy Love abstaining.

CHAIR'S REPORT

As a special recognition for their years of service with APAAC, Ms. Polk expressed the Council's appreciation by presenting an engraved book clock to Mr. Derek Rapiere, Mr. David Rozema, and Mr. Lando Voyles, all of whom are completing their terms in 2016. Mr. Bill Ring accepted on behalf of Mr. Rozema.

LIFETIME ACHIEVEMENT AWARDS FOR NON-ATTORNEY STAFF

Ms. Elizabeth Ortiz proposed for Council consideration the addition of a lifetime achievement award to recognize non-attorney staff at each of APAAC's non-attorney conferences, using criteria similar to the APAAC lifetime achievement award for attorneys. Mr. Brian McIntyre made a motion, seconded by Mr. Sidles, to create an APAAC Lifetime Achievement Award for Non-Attorney Staff. Mr. Brad Carlyon requested Ms. Ortiz provide the criteria for this newly adopted award at a future Council meeting. Motion carried.

FINANCE COMMITTEE REPORT

Mr. Rapier presented the APAAC financial reports for September 2016 and October 2016 as recommended for approval by the Finance Committee. Mr. Rapier made a motion, seconded by Mr. Voyles, to accept the financial reports. Motion carried.

BEST PRACTICES COMMITTEE REPORT

Mr. Sidles referred Council to the seminar report attachment showing attendee numbers for APAAC-sponsored trainings held in October/November 2016, as well as registered numbers for upcoming December 2016 seminars. Mr. Sidles reminded the Council that presentation proposals for the 2017 Annual Prosecutor Conference are due on December 16, 2016.

LEGISLATIVE POLICY COMMITTEE (LPC) REPORT

Mr. Jon Smith presented several proposed bills with the following LPC position:

A. LPC Recommendation to Support:

1. **Suggested Statutory Change to 28-1382(A)(2) Aggravated DUI with Priors**

This bill is from the Pima County Attorney's Office. Ms. Polk provided a handout to update the agenda attachment, which included recommended changes from the Yavapai County Attorney's Office. Yavapai and Pima prosecutors who specialize in DUI law will work together to modify the draft language, so LPC can bring a revised proposed bill to the Council meeting on January 6, 2017, for final consideration. Ms. Cramer made a motion, seconded by Mr. Sidles, that APAAC approve conceptually the proposed statutory amendment to A.R.S. §28-1382(A)(2) Aggravated DUI with Priors, with input as stated above from the DUI experts. Discussion followed. While the final language is being drafted, Ms. Mayer will work with Ms. Emily Jurmu to open a folder so the bill can move forward as an APAAC bill and a legislative sponsor can be found. Motion carried, with Ms. Love abstaining.

2. **SB1510 – Incompetent Persons: Mental Health Evaluations (as APAAC bill)**

Ms. Mayer stated that SB1510 is a previously run bill that APAAC supported and that passed both houses last year. The governor vetoed the bill due to a minor issue that Ms. Mayer states is being corrected. Mr. Carlyon made a motion, seconded by Mr. Rapier, that APAAC support this bill and that APAAC's representative to the Arizona Association of Counties (AACo) promote this bill in the legislative discussion at the AACo conference on December 2, 2016. Motion carried, with Ms. Love abstaining.

3. **Revision or repeal of 28-1595(C)**

LPC recommends support of the proposed language revising this City of Phoenix bill. Mr. Montgomery made a motion, seconded by Mr. Brad Beauchamp, to support revision of A.R.S. §28-1595(C), as drafted. Motion carried, with Ms. Love abstaining.

4. New drugs that need to be added to 13-3401

Mr. Sidles made a motion, seconded by Mr. McIntyre, to approve the proposed revised definitions in A.R.S. §13-3401 based upon the determination that the new drugs are not currently included in the molecular backbone of the statute. Discussion followed. Mr. Sidles withdrew his motion, and Mr. McIntyre withdrew his second of that motion. Mr. Sidles made a new motion, seconded by Mr. McIntyre, to table this item. Motion carried.

B. LPC Recommendation to Oppose:**1. Administrative Office of the Courts' Fair Justice Initiative Draft Language & Bill Summary**

Mr. Jon Smith stated LPC is continuing to review changes to the draft language for this bill. Mr. McIntyre made a motion, seconded by Mr. Sidles, to table this item. Motion carried.

PERSONNEL COMMITTEE REPORT

Ms. Ortiz reviewed the Council's direction at its August 5, 2016, meeting when it approved the proposed revised APAAC Employee Handbook with the provision that the existing accrual leave system be replaced with a PTO program. The Personnel Committee met on August 22, 2016, and directed APAAC to poll Council offices and request information relative to their respective annual and sick leave programs. Based on the survey results, the Personnel Committee now recommends the Council accept the proposed newly revised APAAC Employee Handbook that incorporates a modified sick leave policy to provide payout of up to 160 hours of unused sick leave to an employee, upon retirement only. Mr. Sidles made a motion, seconded by Mr. McIntyre, to approve the proposed newly revised APAAC Employee Handbook as presented. Motion carried. Later, Mr. Carlyon asked APAAC consider the formula for paying out accumulated sick leave to state employees, as provided in A.R.S. §38-615. Ms. Ortiz will review the provision and report back to the Council.

Ms. Ortiz presented a proposed Confidentiality Agreement for individuals serving as an APAAC intern, extern, fellow and/or volunteer, as recommended for approval by the Personnel Committee. Mr. Montgomery made a motion, seconded by Mr. McIntyre, to approve the proposed Confidentiality Agreement, as presented. Motion carried.

Ms. Ortiz announced that APAAC is pursuing a grant to fund an administrative position for the "What You Do Matters: Lessons from the Holocaust" program, previously supported by AzPOST. The Personnel Committee recommended Council approve the proposed grant-funded administrative position. Ms. Cramer made a motion, seconded by Ms. Liliana Ortega, to approve. Motion carried.

NACo / AACo REPORT

Mr. Carlyon thanked Mr. Voyles for serving as the Arizona representative with NACo/AACo. Mr. Carlyon stated a new county attorney representative for Arizona must be

selected and asked for Council members to meet with him after the APAAC meeting to discuss a nomination for that seat. Mr. Montgomery is under consideration. Mr. Carlyon mentioned there are some criminal legislation items on the AACo board meeting agenda for December 2, 2016. It was also announced that the NACo legislative conference will be held in Washington, D.C., on February 25, 2017-March 1, 2017. NACo will adopt its political platform at this conference, and Mr. Carlyon encouraged Council members to attend and get involved. Anyone interested in serving on the criminal legislative committee can contact Jen Marson of AACo.

NDAA REPORT

Mr. Montgomery shared highlights from a recent meeting of the National District Attorneys Association (NDAA), including the outstanding \$300,000 in grant funds. The financial consulting firm hired by NDAA has recommended two major goals: changes to the training program and a balanced budget. Mr. Montgomery highlighted that NDAA issued a statement opposing the recent report of the President's Council of Advisors on Science and Technology (PCAST). He added that NDAA is a necessary entity to give prosecutors an authoritative voice on a national level.

CALL TO THE PUBLIC

At the request of Mr. Carlyon, Ms. Love provided an update from the Arizona Office of the Courts on the proposed statewide courthouse security enhancements. Ms. Love states there are draft recommendations from the Arizona Office of the Courts for consideration at the Judicial Council's meeting next week.

Mr. Paul Ahler stated that he and several other Council members, along with the Goldwater Institute and Institute for Justice, attended a stakeholders' meeting with Rep. Farnsworth concerning a potential bill he is proposing to modify some of the forfeiture statutes. Mr. Ahler also stated there are two pending court cases

NEXT COUNCIL MEETING

The next Council meeting will be held on Friday, January 6, 2017, at 1:00 p.m. in the APAAC office.

ADJOURNMENT

Ms. Polk declared the meeting adjourned at 3:57 p.m.