

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL  
MEETING MINUTES

January 27, 2012

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by Chair, Sheila Polk, on Friday, January 27, 2012, at 10:00 a.m., at the APAAC Office which is located at 1951 West Camelback Road, Suite 202, in Phoenix, Arizona.

COUNCIL MEMBERS PRESENT

Michael Whiting	Apache County Attorney (telephonic)
David Rozema	Coconino County Attorney
Daisy Flores	Gila County Attorney (telephonic)
Derek Rapier	Greenlee County Attorney
Bill Montgomery	Maricopa County Attorney
Brad Carlyon	Navajo County Attorney
Barbara LaWall	Pima County Attorney (telephonic)
James Walsh	Pinal County Attorney
Sheila Polk	Yavapai County Attorney
Jon Smith	Yuma County Attorney (telephonic)
Tom Horne	Arizona Attorney General
Aaron Carreon-Ainsa	Phoenix City Prosecutor
Jon Eliason	Mesa City Prosecutor
Baird Greene	Tucson City Prosecutor (telephonic)
Tobin Sidles	Oro Valley Town Prosecutor
P. Rob Walecki	Glendale City Prosecutor

PROXIES

Ed Rheinheimer	Cochise County Attorney Proxy Sheila Polk
George Silva	Santa Cruz County Attorney (telephonic) Proxy Liliana Ortega
David Byers	Arizona Supreme Court Proxy Jerry Landau

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Kim MacEachern	Staff Attorney
Denise Helm	Executive Assistant

VISITORS

Kathleen Mayer	Pima Deputy County Attorney (telephonic)
Andrew Pacheco	Assistant Attorney General
Lou Stalzer	APAAC
John Gaylord	APAAC Legislative Extern
David Wick	Supreme Court Intern
Pat Nelson	Arizona Criminal Justice Commission

Mr. Sidles made a motion, seconded by Mr. Rapier, to approve the Consent Agenda. Motion carried.

### CHAIR'S REPORT

Ms. Polk welcomed Jon Eliason, the Council's newest member and the newly appointed Mesa City Prosecutor.

Ms. Polk reviewed the new Council Book binders which will provide members with meeting-related material. Ms. Polk explained that Robert's Rules of Order will be utilized to facilitate an effective meeting and an efficient transcription of the tape-recorded minutes. Mr. Walsh requested clarification that any subsequent meeting of the Executive Committee would not be tape recorded, but that an individual would be appointed to take summary minutes. Ms. Polk responded in the affirmative.

Ms. Polk confirmed that the current committee structure which started under former Chair Derek Rapier will continue going forward. New committee assignments noted by Ms. Polk: Mr. Rapier will serve on the Executive Committee in the newly created position of "Past Chair"; Mr. Carlyon will replace Ms. Polk as Chair of the Personnel Committee; Mr. Eliason will replace Ms. Polk on the Personnel Committee; and, Mr. Walecki has agreed to serve on the Legislative Policy Committee.

### EXECUTIVE DIRECTOR'S REPORT

Ms. Ortiz stated that APAAC is making conscious choices on how the organization presents itself within the prosecution community and the community at large, as well as increasing the dialogue with APAAC members and improving communication in general within APAAC. The first tool being developed to that goal is an APAAC "welcome packet" which will be sent out to all of the Council offices. The packet will consist of a welcome letter from Ms. Ortiz, along with some basic information about APAAC. Ms. Ortiz asked that the Council members consider including the welcome packet in their respective offices' new employee orientation as an introduction to the APAAC organization and its available resources.

Next, Ms. Ortiz discussed the APAAC training calendar for the 2012-2013 CLE year. The calendar will have a new design this year, which will include artwork from the statewide prosecution community. APAAC will be launching an art contest giving prosecutors and their support staff the opportunity to submit original artwork, which includes photography or photos of artwork. APAAC will implement contest rules similar to that of the State Bar of Arizona's annual art competition. APAAC will waive the Summer Conference registration fee for those prosecutors who are selected to have their artwork in the calendar.

Ms. Ortiz provided an update on the timeline for the new APAAC website. Due to a change in the web design vendor, the launch of the new website is approximately four to five weeks out. The APAAC website address will remain unchanged. APAAC will wait to launch its new Twitter and Facebook page with the unveiling of the new website, for maximum effect.

Ms. Ortiz addressed some items associated with APAAC's new branding project. First, is the visual branding reflected by the APAAC popup banner currently on display in the Council's meeting room. These banners are collapsible and easy to carry for use offsite. Additional visual branding will be reflected by APAAC's new business cards and stationery, which are being redesigned with a fresh, contemporary look. Ms. Ortiz stated that these visual branding opportunities are being utilized to identify APAAC's presence at seminars and conferences, in meetings with groups and organizations, and other connections with the community. There are plans to visit all of the individual Council member offices to reinforce APAAC's presence and purpose. Ms. Ortiz emphasized APAAC's outreach to peripheral organizations, boards and committees which she and Ms. MacEachern have become involved with; namely, the Problem Solving Court Committee, Judicial College of Arizona, and the Board of the National Association of Justice Information Systems.

Ms. Ortiz extended an invitation to the Council members to attend the upcoming Victim's Rights luncheon at the State Legislature on April 24, 2012, which is supported by many Council members, including Mr. Horne and Mr. Montgomery, in addition to a number of other victim and/or criminal justice organizations. Ms. Ortiz will be sending out more details concerning this luncheon event to the Council.

Ms. Ortiz presented the new edition of the O'Connor House Domestic Violence poster, copies of which were made available for pickup after the meeting. Ms. Ortiz noted that several prosecution offices were sponsors of the poster project.

Ms. Ortiz advised the Council that Steve Butler from the Department of Public Safety (DPS) crime lab has contacted APAAC for assistance in obtaining input from the prosecution community for the purpose of implementing a new program. The DPS system is becoming overloaded due to the volume of fingerprints in the system; however, unlike other databases around the country, DPS does not currently have a retention schedule for keeping fingerprints. Mr. Montgomery mentioned a state budget line item for upgrading the state computer system and asked if that would impact the program. Ms. Ortiz indicated she would address that in her follow-up meeting with Mr. Butler. Ms. Polk clarified that Mr. Butler will be reaching out directly to the prosecution community, and that he can answer specific questions with regard to the program. If the Council feels feedback to Mr. Butler would be better represented by an APAAC subcommittee, the Council can address that at a later date.

Ms. Ortiz alerted the Council that, due to a conflict with a future APAAC seminar date, the Council's meeting currently set for March 30, 2012, will be rescheduled. The next Council meeting is scheduled for February 23, 2012.

### STAFF ATTORNEY'S REPORT

Ms. MacEachern acknowledged the release of Dr. Fischer's updated "Prisoners in Arizona" report on January 5, 2012, and the great front-end work done by the Maricopa County Attorney's Office, including Jerry Cobb, Debbie McKenzie and Scott Tidball. The related website, AZsentencing.org, went "live" the same day and is constantly being updated with news items. Opening day got a lot of media attention. Mr. Montgomery's press conference went very well and there was coverage by Channels 3, 5 and 10; also, KJZZ had a great response and follow-up reporting. There has been good exposure in print with AZ Capitol

Times, the Yellow Sheet, Arizona Republic editorial, and others around the state. APAAC has retained Anna Hackett to look for opportunities to get this information out to the general community. Ms. MacEachern encouraged a team effort among the Council to keep the topic alive by putting a link to Dr. Fischer's report on their websites, utilizing the new website as a basis for penning one's own oped piece for local news outlets, as well as other resources offered through the Maricopa County Attorney's office and APAAC.

Ms. MacEachern is currently serving on the Problem Solving Courts Conference planning committee, which will hold its annual meeting themed Collaboration for Change on May 15<sup>th</sup> and 16<sup>th</sup> in Phoenix. This is the first time prosecutors are involved and Mr. Rozema is invited to be a keynote speaker. APAAC sent out an email with a call for presentations, including a long list of suggested topics. Ms. MacEachern encourage ideas from the Council and noted a request from a member that APAAC consider doing a presentation as representative of the prosecuting community and as a good opportunity to dovetail with the "Prisoners" Report.

As an outgrowth of that conference, Ms. MacEachern is also working with representatives from the Maricopa County Attorney's Office and the public defenders' office to put together a program for the Criminal Justice section of the State Bar which has not historically had a presence at the State Bar Convention. The concept will include applicable portions of the Problem Solving Courts Conference, as well as post-conviction activities with collaboration from probation and AZ Department of Corrections. Ms. MacEachern encouraged Council members to participate and attend, if possible, recognizing that most prosecutors traditionally do not attend due to cost and the lack of demand for CLE opportunities in that forum.

Ms. LaWall added that she had learned from State Bar President-elect Amelia Craig Cramer, that a one-day reduced fee for public lawyers will be offered which should enable more prosecutors to attend the convention.

Ms. Polk commended Ms. MacEachern on the fantastic job working with Dr. Fischer on the "Prisoners in Arizona" report and its recent release.

#### STATE RECORD RETENTION PROGRAM

Mr. Stalzer addressed the Council regarding the State Record Retention Program. He is working with the Department of Library, Archives and Public Records to combine into one schedule all the legal retention general and customized schedules currently being used by the various county, state and municipal agencies. This program is also being extended to Arizona law enforcement agencies. Mr. Stalzer referred to a draft Records Retention Schedule handout provided the members in their Council binders. He asked Council members to have their staff review it and submit comments to Ms. Ortiz at APAAC by the end of February 2012.

#### UPDATE ON MEDICAL MARIJUANA LAWSUIT

Mr. Montgomery provided an update on the medical marijuana lawsuit filed in federal court. The State of Arizona has decided not to appeal the lawsuit that Judge Bolton heard,

therefore, Maricopa County's motion to intervene in the lawsuit was not granted and is now effectively moot. Mr. Montgomery's confirmed, however, that his opinion issued to the Maricopa County Board of Supervisors still stands; namely that Maricopa County will not accept or process any applications to get a permit for any distribution or cultivation site within Maricopa County proper that the County has authority for or zoning on.

### FAILURE TO APPEAR WARRANT ISSUE

Ms. Nelson, a program manager with the Arizona Criminal Justice Commission, spoke to the Council on behalf of a statewide workgroup focusing on improvements to criminal history records in the Department of Public Safety (DPS) database. Ms. Nelson requested assistance from the Council and their staff in addressing missing dispositions for the large number of Failure to Appear offenses and providing solutions for the disjointed warrant process. Discussion was held. Ms. Nelson requested the Council members consider participating in the program, and she provided CDs and informational pamphlets to take back to their respective offices for that purpose.

### NDAAC REPORT

Mr. Walsh reported that NDAAC is very close to the completion of a significant audit. This audit has affected the timing of NDAAC's plan to replace the National Advocacy College. NDAAC is proposing a program at the University of Utah that would be a National Criminal Justice Academy to train prosecutors, public defenders, and others. NDAAC and the University of Utah Law School want to move forward in 60 to 90 days, even though only the prosecutors are prepared to start offering courses. They are waiting for one or two national legal defender organizations to join the project, before approaching Congress.

Mr. Walsh next reported that Arizona will have five (5) representatives attending the NDAAC Capitol Conference in Washington, D.C.: Mr. Walsh, Mr. Carlyon, Mr. Rheinheimer, Ms. LaWall and Ms. LaWall's chief deputy, Amelia Cramer. While in D.C., they will also meet with Congressional representatives. Mr. Walsh thanked Ms. Polk for reaching out to Representative Flake.

Mr. Walsh received a request earlier in the week to get support for the Violence Against Women's Act (VAWA), which Senator Leahy has asked NDAAC to support. Mr. Walsh asked for support of VAWA by way of writing to Senator Leahy's office and encouraging him in getting the Act authorized and properly appropriated.

Mr. Walsh stated that Arizona is a very strong NDAAC supporter and encouraged 100% continued support. He further emphasized that NDAAC is the voice of prosecutors at the federal level, particularly in Congress. Mr. Walsh ended his report by introducing a video promoting support for NDAAC. [Video was played.]

Ms. Polk confirmed that APAAC's NDAAC membership will be renewed, since no objections were received in response to the earlier email to the Council members on that subject.

### TRAINING COMMITTEE REPORT

Mr. Sidles reported that in 2012 the APAAC Basic Advocacy Course will only be offered twice, in January and October, due to the decreased number of new prosecutors in Arizona.

Mr. Sidles announced that APAAC will be offering the Bryan Garner Legal Writing Seminar on September 7, 2012, which will accommodate up to 150 attendees. Space will be reserved for twenty-five legal assistants to attend the seminar.

The next Training Committee meeting will be on February 23, 2012, at 9:00 a.m., at the APAAC office.

### LEGISLATIVE POLICY COMMITTEE REPORT

Mr. Walsh explained the process whereby the Legislative Policy Committee makes recommendations of their position on bills for approval by the Council. The bills are listed on the agenda in groups (Support, Oppose, Neutral, or Monitor), based on the committee's recommendation, for ease of voting by the Council. Mr. Walsh indicated that the term "No Position" will be used, in place of "Neutral" in all future LPC recommendations. Also, some bills are listed for informational purposes only and do not require a motion for Council vote.

Mr. Walsh made a motion, seconded by Mr. Sidles, that APAAC support all the bills listed under Support. Motion carried. Mr. Landau abstained.

Mr. Landau stated for the record that his office supports HB2382 and SB1152.

Mr. Landau wanted three bills taken off the Opposed List: HB2297, HB2432 and HB2434.

Mr. Walsh made a motion, seconded by Mr. Sidles, that APAAC oppose all the remaining bills on the Opposed List. Motion carried. Mr. Landau abstained.

Mr. Walsh made a motion, seconded by Mr. Montgomery, to oppose the bills that were removed from the list: HB2297, HB2432 and HB2434. Motion carried.

Mr. Walsh made a motion, seconded by Mr. Sidles, that APAAC take No Position on the bills called Neutral. Motion carried.

Mr. Walsh made a motion, seconded by Mr. Sidles, that APAAC monitor the bills listed under the attachment Monitor. Motion carried.

Ms. Polk thanked LPC for their excellent job in streamlining the Council's bill review and voting procedure with their use of the Legislation On-Line Arizona (LOLA) Web Reports.

### NEXT COUNCIL MEETING

After today's Council meeting there will be a follow-up to the September 2011 Executive Leadership Seminar. Lunch will be served and everyone is invited to stay.

The next Council meeting will be held on Thursday, February 23, 2012, at 10:00 a.m. at the APAAC office.

ADJOURNMENT

Mr. Rapier made a motion, seconded by Mr. Landau, to adjourn the meeting at 11:40 a.m.