

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

August 2, 2011

The quarterly meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chairman, Derek Rapier, on Tuesday, August 2, 2011, at 2:00 p.m., in the Indigo Room at the Westin La Paloma, which is located at 3800 East Sunrise Drive in Tucson.

COUNCIL MEMBERS PRESENT

Michael Whiting	Apache County Attorney
Edward Rheinheimer	Cochise County Attorney
Daisy Flores	Gila County Attorney
Kenneth Angle	Graham County Attorney
Derek Rapier	Greenlee County Attorney
Samuel Vederman	La Paz County Attorney
William Montgomery	Maricopa County Attorney
Brad Carlyon	Navajo County Attorney
Barbara LaWall	Pima County Attorney
James Walsh	Pinal County Attorney
George Silva	Santa Cruz County Attorney
Sheila Polk	Yavapai County Attorney
Jon Smith	Yuma County Attorney
Aaron Carreon-Ainsa	Phoenix City Prosecutor
John Pombier	Mesa City Prosecutor
Baird Greene	Tucson City Prosecutor

PROXIES

David Rozema	Coconino County Attorney Proxy Mike Lessler
Tom Horne	Arizona Attorney General Proxy James Keppel
David Byers	Arizona Supreme Court Proxy Jerry Landau
Tobin Sidles	Oro Valley Town Prosecutor Proxy Derek Rapier

STAFF PRESENT

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

VISITORS

Kathleen Mayer
Richard Platt

Pima Deputy County Attorney
Pinal Deputy County Attorney

Mr. Montgomery made a motion, seconded by Mr. Walsh, to accept the minutes of the June 3, 2011 meeting. Motion carried.

CHAIRMAN'S REPORT

Discussion was held on the date for the September 2011 Council Meeting. Mr. Landau made a motion to have the next meeting October 6, 2011. Mr. Pombier seconded the motion. Motion carried

Discussion was held on the Proposed 2012 Council Meeting Calendar. Ms. Flores made a motion to adopt the proposed calendar for 2012. Ms. Polk seconded the motion. Motion carried.

PERSONNEL MATTERS

Mr. Rapier gave some background on the Executive Director performance evaluation. Ms. Polk also commented on the process involving the previous evaluation.. Ms. Polk stated that she wanted to rescind the old evaluation for the Executive Director and move forward using the new evaluation tool.

Mr. Walsh made a motion, seconded by Ms. Polk, that the previous evaluation form be rescinded and no longer valid. Motion carried.

Mr. Rapier talked about what had transpired at the last Council meeting in regard to the Executive Director's salary and the 1.54% increase.

Ms. Polk made a motion, seconded by Mr. Pombier, to adjust the salary chart by 1.54% and then move the Executive Director from step 7 to step 8. Discussion was held. Motion carried.

Mr. Rapier gave some background on the hiring of the Executive Director and the Staff Attorney and new organizational structure. Discussion was held.

Ms. LaWall made a motion, seconded by Mr. Walsh, to go into Executive Session pursuant to ARS § 38-431.03(A)(1) for the purpose of discussion the Staff Attorney salary. Motion carried.

The meeting was reconvened at 3:03 p.m. Mr. Pombier made a motion, seconded by Mr. Walsh, to increase the Staff Attorney salary from step 8 to step 9 and also increase her travel allowance from \$2,500 to \$3,000 per year.

Discussion was held on when the raises will become effective. Mr. Montgomery made a motion, seconded by Mr. Walsh, to make the raises retroactive to July 1, 2011.

EXECUTIVE DIRECTOR'S REPORT

Ms. Ortiz presented the Financial Report, Financial Statement and Checklist for May, 2011. Discussion was held.

SEMINAR REPORT

Ms. Ortiz gave the Seminar Report. She presented the Overview of Recent Seminars along with the newly created Training Calendar for 2011 and 2012. Ms. Ortiz then talked about each seminar. Discussion was held.

Ms. Ortiz informed the Council about the upcoming changes to the APAAC website and communication options for 2012

Ms. Ortiz presented the Updated Deferred Prosecution Guidelines along with the current guidelines. She explained that APAAC has reviewed the guidelines and presented a revised version for the Council to review and discuss at the next Council meeting.

Ms. Ortiz talked about the FY 2011-12 budget. Mr. Montgomery made a motion, seconded by Mr. Walsh, to approve the FY 2011-12 Budget. Discussion was held. Motion carried.

Discussion was held on Special Prosecution Support Project and the Guidelines.

Ms. Ortiz talked about creating APAAC awards for Support Staff and Legal Assistants seminars. Discussion was held and several suggestions were made. The Council agreed that this was a good idea to create the awards. They recommended putting all their ideas together and developing something for the awards. Ms. Ortiz suggested recognizing the award winner by adding another page to the Summer Conference brochure. Further discussion was held.

STAFF ATTORNEY'S REPORT

Ms. MacEachern talked about what COVIC (AZ Supreme Court Commission on Victims in the Court) stands for and how victims are affected by having their names in court documents. COVIC asked that APAAC develop a statewide policy for implementing their guidelines for victim identification privacy in court documents. Discussion was held. Ms. MacEachern asked that the Council review the guidelines she attached to the agenda and decide at the next Council Meeting as to whether or not to adopt them.

Ms. MacEachern talked about the LPC (Legislative Policy Committee) sentencing discussion and the update goals for future Fischer Reports. Discussion was held on the communication strategy for the Fischer Report and hiring a specialist. Ms. MacEachern presented the first recommendation to consider developing a strategy for building alliances with the other constituencies with the release of the Fischer Report. This can be done by retaining a communication specialist to advise the council and suggest a process to carry the message forward. Mr. Rapier expressed appreciation for the LPC taking on this project. Mr. Walsh stated that he thought it was very critical to get a communications professional to work on this. Discussion was held. It was stated that the first step was to update the Fischer Report, then hire a communications specialist to help get the word out to make it an effective report and also get the other constituencies to say that we all agree that this is the objective data. It is important to have a good communication strategy to market that objective data. Further discussion was held on hiring a communication specialist versus using the Public Information Officers from within the county offices. It was suggested that respective PIO's from the various offices convene a subcommittee meeting on what we would need to get regarding outside support on a communication strategy and maybe put something together where any additional involvement is minimal. If they recognize that their own resources are not going to permit them to contribute to an ongoing effort then the communications professionals would be needed, but that should be the call of the PIO's. Discussion ensued as to the administrative function of the Executive Director without further Council action to hire a consultant if that is what the PIO's suggest.

Further discussion ensued on hiring a communication specialist.

Ms. Polk made a motion, seconded by Mr. Montgomery, to allow the Executive Director, pursuant to our Bylaws to work with the PIO's and possibly retain outside professional help to accomplish our message. It was further explained that the PIO's working with the Executive Director would make the decision on what we need from the outside if anything. Discussion was held. Mr. Rapier restated the motion to assemble the PIO's and on their recommendation, empower our Executive Director pursuant to the APAAC rules to hire other professionals to help execute the recommendations of the PIOs. A roll call vote was taken. Motion carried.

Discussion was then held on a funding cap for hiring a professional.

Mr. Walsh made a motion, seconded by Mr. Smith, with the cap not to exceed \$15,000 until our next meeting. Discussion was held. A vote was taken. Motion carried. Mr. Landau abstained.

SUMMER CONFERENCE PROSECUTOR OF THE YEAR AWARDS

Each council member who nominated a prosecutor for an award gave a brief speech on their nominees' attributes and accomplishments. The following categories were considered: Felony Large Jurisdiction Prosecutor, Felony Small Jurisdiction Prosecutor, Misdemeanor Prosecutor, David White Award and Lifetime Achievement Award. A vote was taken on each category and the following nominees were chosen: Kellie Johnson,

Pima County for Felony Large Jurisdiction; Jonathan Mosher, Coconino County for Felony Small Jurisdiction; Joseph Clark, Navajo County for Misdemeanor Prosecutor; Frances Maffetone, Pima County for David R. White; and Ron Beran, Tucson City Prosecutor and Leonard Ruiz, Maricopa County for Lifetime Achievement.

RECESS

It was the decision of the Council at 5:50 p.m. to recess the meeting until August 3, 2011 at 2:30 p.m.

The meeting was reconvened at 2:30 p.m. on August 3, 2011 and roll call was taken. The following Council members were present:

Edward Rheinheimer	Cochise County Attorney
David Rozema	Coconino County Attorney
	Proxy Mike Lessler
Derek Rapier	Greenlee County Attorney
Samuel Vederman	La Paz County Attorney
William Montgomery	Maricopa County Attorney
Brad Carlyon	Navajo County Attorney
Barbara LaWall	Pima County Attorney
	Proxy Kathleen Mayer
James Walsh	Pinal County Attorney
Sheila Polk	Yavapai County Attorney
Jon Smith	Yuma County Attorney
Tom Horne	Arizona Attorney General
	Proxy James Keppel
Aaron Carreon-Ainsa	Phoenix City Prosecutor
John Pombier	Mesa City Prosecutor
Baird Greene	Tucson City Prosecutor
Tobin Sidles	Oro Valley Town Prosecutor

The following staff members were present:

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

Ms. MacEachern reported on sentencing issues.

Mr. Walsh made a motion, seconded by Ms. Polk, that APAAC work with the County Attorneys to get the deferred prosecution and diversion statistics in a form that's standardized and can be reported to the legislature from APAAC. Discussion was held. Motion carried.

Ms. MacEachern brought up the issue of recidivism. Discussion was held.

Mr. Walsh made a motion, seconded by Mr. Montgomery, to have the Council work with Adult Probation as well as with programs at the universities' criminal justice study programs to put together a picture of what recidivism is and what it looks like in this state. Getting some kind of an objective set of data that people can refer to when they want to talk about policy changes or policy status quo. This motion was clarified to explore what programs are out there.

It was clarified again that the Council, through the APAAC staff or through any devices that the Chairman chooses i.e., special committees or otherwise, would consult with Adult Probation, and the Administrative Office of the Courts (AOC), find out what research programs or research opportunities exist in these criminal justice programs, and report back to the Council regarding a potential group recidivism study using some of the data that's there while working with the university program that is interested in working with us. Motion carried.

Ms. MacEachern talked about specialty courts and proposed that APAAC compile a list of what is currently being done and ascertain the costs to determine if we want to expand it to a greater number of offenders or offense categories. Discussion was held and it was decided that no council action was needed to call around and find out what was going on.

Ms. MacEachern talked about the request for feedback on the Caylee's Law memo. Discussion was held. It was the consensus that until language comes out for something more concrete to give Ms. MacEachern the direction whether this is on behalf of APAAC. She may be involved in the drafting process and share the memo with the legislature. At the point that language is developed the Council can then vote and take a position.

Ms. MacEachern then talked about synthetic drugs. Discussion was held.

Mr. Walsh made a motion, seconded by Ms. Polk, that as a recommendation of the Legislative Policy Committee that APAAC work with the appropriate stakeholders and law enforcement to draft legislation and get a favorable response that would allow adding these dangerous compounds to controlled substance through administrative rule by the board of pharmacy subject to subsequent legislative action. Discussion was held. Motion carried.

Ms. MacEachern updated the Council on the progress of putting on a Criminal Law School for Legislators.

Ms. MacEachern talked about the Centennial Project and her idea of highlighting a prosecutor from each of the jurisdictions over the last 100 years that is a notable prosecutor for some reason or another. She asked the Council to forward any ideas to her.

Ms. MacEachern went over the current list of legislative issues identified for legislative action for the 2012 session. Some of those topics were digital stalking, sexting, mental health and issues arising out of court cases interpreting statutes. Discussion was held.

Mr. Walsh made a motion, seconded by Mr. Montgomery, that APAAC move forward with getting a legislative sponsor, drafting legislation, to amend ARS §13-3244 to exclude a minor victim's name from the public record to protect victim identity. Motion carried. Mr. Landau abstained.

NDAAC UPDATE

Mr. Walsh reported on the NDAA Summer Conference in Sun Valley, Idaho. He reported that there is a possibility that the Byrne JAG will be cut this fiscal year, and possibly next. He also talked about the JR Justice Program and the fact that it was cut for the current year. He suggested that the people who received these loans should write a letter to their legislators letting them know how important this program is.

Mr. Walsh reported that the National Advocacy Center in South Carolina is closed down. He stated that the plan is to institute a similar program called the National Criminal Justice Academy at the University of Utah Law School. This program would train both prosecutors and public defenders. Mr. Walsh updated the Council on the problems with this program moving forward.

Mr. Walsh informed the Council of his participation in a project that Canadian Provinces can cooperate directly with prosecutors in the United States. NDAA has approved a model MOU or template for cooperation between prosecutors in Canada and the United States for local laws.

UPDATE ON CRIMINAL DISPOSITION REPORTING AND PROPOSED CRIMINAL CODE CLEANUP UP BILL

Mr. Landau gave an update on the Criminal Disposition Reporting system. He stated that AOC (Administration Office of the Courts) is moving forward with plans to look at the criminal disposition reporting system from start to finish.

Mr. Landau gave an update on the proposed criminal code cleanup up bill.

The potential APAAC sponsored statewide public education forum on mandatory reporting law for the clergy will be talked about at another time.

CALL TO THE PUBLIC

Ms. Polk thanked the staff for a job well done over the past years.

NEXT MEETING

The next meeting will be held October 6, 2011 at 10:00 a.m. at the APAAC office.

ADJOURNMENT

Mr. Montgomery made a motion, seconded by Mr. Vederman, to adjourn the meeting at 3:50 p.m.