

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

December 4, 2013

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chair, Sheila Polk, on Wednesday, December 4, 2013, at 10:00 a.m., in Room 213-A at the Phoenix Convention Center located at 100 N. Third Street, in Phoenix, Arizona.

COUNCIL MEMBERS PRESENT

Sheila Polk	APAAC Chair, Yavapai County Attorney
Jon Smith	APAAC Vice-Chair, Yuma County Attorney
Brad Beauchamp	Gila County Attorney
Brad Carlyon	Navajo County Attorney
Jon Eliason	Mesa City Prosecutor
Marc Miller	Dean, James E. Rogers College of Law, University of Arizona
Bill Montgomery	Maricopa County Attorney
Derek Rapier	Greenlee County Attorney
Tony Rogers	La Paz County Attorney

COUNCIL MEMBERS PRESENT BY PROXY

Aaron Carreon-Ainsa	Phoenix City Prosecutor Proxy Jessica Breedlove
David Byers	Arizona Supreme Court Proxy Amy Love
Tom Horne	Arizona Attorney General Proxy Andrew Pacheco (telephonic)
Barbara LaWall	Pima County Attorney Proxy Kathleen Mayer
Tobin Sidles	Oro Valley Town Prosecutor Proxy Sheila Polk
Lando Voyles	Pinal County Attorney Proxy Bill Montgomery

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Kim MacEachern	Staff Attorney
Diana Cooney	Office Manager

VISITOR

Elizabeth Kempshall	Director, Arizona HIDTA Training Center
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CONSENT AGENDA

Mr. Bill Montgomery made a motion, seconded by Mr. Derek Rapier, to approve the minutes from the October 17, 2013, Council meeting. Motion carried.

OVERVIEW OF ARIZONA HIDTA PROGRAM

Elizabeth Kempshall, Director of the High Intensity Drug Trafficking Areas (HIDTA) Program for Arizona, provided the Council with a brief background of the program and future plans for the next year. Ms. Kempshall handed out copies of HIDTA's fact sheet providing an overview of the program, its Arizona initiatives, and a list of participating agencies. Mr. Montgomery sits on HIDTA's management subcommittee.

HIDTA is hosting a meeting on January 28, 2014 at their training center to bring together the state and county attorneys and their prosecutors to share information and strategies in the fight against drug trafficking in Arizona. Ms. Elizabeth Ortiz will coordinate with Ms. Kempshall to email the HIDTA meeting details to Council members.

Ms. Kempshall shared HIDTA's new website: www.AZHIDTA.org, which provides more information and resources (secured access is available by registering as a participant under the "Initiatives" tab). This may also be a helpful link for Council agency websites.

CHAIR'S REPORT

Ms. Sheila Polk stated that Yavapai County's Substance Abuse Coalition (MATFORCE) launched a statewide initiative called "Marijuana Harmless? Think Again." Ms. Polk and MATFORCE Director, Merilee Fowler, will show a PowerPoint presentation on this topic at a legislative luncheon hosted by Sen. Kimberly Yee and Rep. Karen Fann, scheduled on January 15, 2014, from 11:30 a.m. to 1:00 p.m. in Rooms 035/038 of the House of Representatives Building, 1700 W. Washington in Phoenix. A flyer is provided as an agenda attachment and also on APAAC's website. Council members are encouraged to RSVP and attend the luncheon to show support for the initiative and presentation.

MATFORCE has also launched a new website, www.marijuanaharmlessthinkagain.org, as part of this initiative, providing the latest marijuana facts and listing all fact sources to maintain the program's integrity.

Ms. Kempshall will forward to Ms. Ortiz information from the Rocky Mountain HIDTA Director on the "Colorado Experience" related to this initiative for dissemination to the Council. She will also provide a link to www.marijuanaharmlessthinkagain.org on HIDTA's website as a resource for their registered users.

To date, MATFORCE has created two commercials with the cooperation of Cable One, who will run them for free on the local cable channel in Yavapai County. The two talking points are: "8-point drop in IQ by age 38" and "If Marijuana were Legal...?" Ms. Polk will make the commercial videos available to those Council offices who are interested in posting them on their social media resources.

Ms. Polk thanked Dean Marc Miller on behalf of the Council for his active participation over the past year as a member of APAAC. Dean Miller thanked the Council for the opportunity to be involved, for ongoing training of UofA's law students in agency offices, and encouraged Council members to continue utilizing the law school's resources.

EXECUTIVE DIRECTOR'S REPORT

Ms. Ortiz attended the Attorney General's Anti-Sex Trafficking luncheon on October 24, 2013. She has also visited the following Council offices: Greenlee County on October 28, 2013, for training on strangulation cases; La Paz County on November 1, 2013, for a conflict case; Maricopa County on November 15, 2013, for training; Pinal County on November 18, 25, and 26, 2013, for attorney interviews and to assist with appellate matters. Ms. Ortiz participated with the Governor's Office of Highway Safety in a DUI checkpoint on November 29, 2013, and attended their press conference on December 3, 2013, at the State Capitol, along with other Council members. Ms. Ortiz has an upcoming visit to Yuma County on December 6, 2013, to present a new ethics training.

Ms. Ortiz met with Mr. Richard Rosky, Training Director for the Arizona HIDTA Training Center, to review HIDTA's new core curriculum, faculty, and best practices for training administration. HIDTA has invited Ms. Ortiz and several other prosecutors to conduct trainings on appeals and wiretaps at their new facility. Ms. Ortiz believes this will be a productive relationship for both APAAC and HIDTA.

In APAAC's continuing effort to elevate APAAC's visibility in the community, Ms. Ortiz recently appeared on the PBS Horizon show to discuss the recent Supreme Court Rule 3.8 changes. Prof. Keith Swisher from the Arizona Summit School of Law, who is also involved in the Innocence Project, provided counterpoint on the issue; Horizon host, Mr. Ted Simons, served as moderator.

In addition, Ms. Ortiz will appear with Mr. Brad Carlyon in January on the Navajo County public access channel. Ms. Ortiz noted that she will be featured in the February issue of the AZBar "Spotlight" publication, through an invitation from Mr. Ted Campagnolo of the Attorney General's office, who sits on the AZ Bar Public Lawyer's Section.

APAAC is very optimistic about a new partnership with the Arizona Summit School of Law. Ms. Ortiz announced that Prof. Keith Swisher has invited Ms. Ortiz to present to his criminal law class in spring 2014. The Arizona Summit School of Law has also offered APAAC access to their mock courtroom for use in the Introduction to Trial Advocacy course's mock jury trial exercise. It was also noted that APAAC's spring 2014 legislative extern is a student at Arizona Summit School of Law.

Ms. Ortiz participated as an instructor in the Forensic Science Lecture series for criminalists, along with two judges and a defense attorney. During this 4-hour course, attendees learned forensic science training from the crime scene to the courtroom.

As a result of the coordinated efforts of Ms. Jennifer DePoorter, APAAC's administrative assistant, who has been reaching out to the human resource contacts at each of the respective Council offices, APAAC's website now has an enhanced employment page. Council members are encouraged to visit the website for all the newest updates.

Ms. Ortiz and Ms. MacEachern will be attending the National Association of Prosecuting Coordinator's (NAPC) Winter Conference in Austin, Texas, on December 9-11, 2013. Ms. Ortiz is presenting at the conference a proposal for NAPC to update and expand their website.

STAFF ATTORNEY REPORT

Ms. MacEachern presented APAAC's status report on its Truman Young Fellowship at Arizona State University and the Udall Family Fellowship at the University of Arizona, to assist the Council in determining what funding priority to assign the fellowships in future budgets. The fellowship program has been posted at both schools for the 2014-15 academic year, applications are being received, and interviews have been scheduled. Any decision made now will affect only the 2015-16 programs and going forward.

Mr. Rapier requested that APAAC staff survey Council members to solicit input about the fellowship program in general, and specifically whether or not to continue committing APAAC's financial resources to the program. The input received should then be considered by the Training Committee and the Finance Committee and brought back to the Council for a decision.

Ms. Ortiz requested Council give APAAC direction at the January 16, 2014, Council meeting, so it can be considered when discussing the upcoming budget for next year.

FINANCE COMMITTEE REPORT

Mr. Rapier presented APAAC's Financial Reports for October, 2013, for review and approval together with a list of the Finance Committee's meetings for 2014. Mr. Rapier noted that the Finance Committee will meet prior to each scheduled Council Meeting to review the monthly financial reports to be submitted for Council approval.

Mr. Rapier made a motion, seconded by Mr. Montgomery, to approve the October 2013 Financial Reports. Motion carried.

Mr. Carlyon remarked that there has been a trend among judges recently to waive surcharges and assessments for defendants, which is having a direct negative impact on the state's revenue. Council members may want to consider addressing the issue by providing the courts in their respective jurisdictions data showing that an alternative reduction in fees will produce the same net result for defendants without affecting the surcharges and assessments collected. Mr. Carlyon has a data chart from Navajo County on this topic that he will share with those Council agencies who are interested.

SUPPLEMENTAL PRISONERS IN ARIZONA REPORT

Mr. Rapier reported that there has been a request for APAAC to update its "Prisoners in Arizona," authored by Daryl R. Fischer, Ph.D. in March 2010, along with his follow-up report in December 2011. APAAC has already purchased a CD of the raw data from the Arizona Department of Corrections for \$100. Dr. Fischer's proposed fee to update the report is \$14,000, inclusive of all work. Ms. Ortiz noted that because there is no line item in the current budget for the cost of this update, she is seeking Council direction.

Mr. Rapier made a motion, seconded by Mr. Carlyon, to spend up to \$14,000 of APAAC's contingency funds for Dr. Fisher to update the Prisoners in Arizona report. Discussion ensued. Motion carried.

Mr. Carlyon suggested that APAAC consider the cost for updating this report annually when discussing budgets going forward.

LEGISLATIVE POLICY COMMITTEE REPORT

Ms. MacEachern presented a bill proposal from the Arizona Judicial Council to extend the Jury Service Lengthy jury trial fund, which expires in 2014 under the 10-year sunset clause.

Mr. Carlyon made a motion, seconded by Mr. Jon Smith, to support the proposal. Motion carried.

Ms. MacEachern presented a bill proposal from the Arizona Criminal Justice Commission (ACJC) addressing the NICS reporting system, the Mental Health Repository and changes in the statute to make mental health issues correlate with the prohibitive possessor law and our ability to comprehensively report to NICS for compliance with the grant. LPC recommends support of this bill.

Mr. Rapier made a motion, seconded by Mr. Jon Eliason, to support the NICS: Post Special Draft. Motion carried.

RULES COMMITTEE REPORT

Ms. MacEachern stated she will be working with a State Bar group looking at changing the Rules of Evidence on domestic violence regarding prior convictions.

TRAINING COMMITTEE REPORT

Ms. Ortiz referred the Council to the agenda attachment listing the recent APAAC Seminars and attendee numbers. Ms. Ortiz thanked the Maricopa County Attorney's

Office for their continued support of APAAC in providing resources for these trainings, including free use of facilities, access to equipment, and technical support.

The next Training Committee meeting is scheduled for Thursday, December 19, 2013, at 10:00 a.m. in the APAAC office.

CALL TO THE PUBLIC

Mr. Montgomery briefly discussed the Association for Prosecuting Attorneys (APA), and mentioned that his office will be sending a representative to APA's conference in January 2014.

Mr. Tony Rogers thanked all the Council members for their joint effort in assisting with the conflict cases that his office faced last year.

Mr. Carlyon announced that the Arizona County Attorneys and Sheriffs Association will have a joint meeting of county attorneys and sheriffs today at 1:30 p.m., in conjunction with the Arizona Association of Counties conference at the Phoenix Convention Center.

NEXT COUNCIL MEETING

The next Council meeting is scheduled for Thursday, January 16, 2014, at 10:00 a.m. in the APAAC office.

ADJOURNMENT

Ms. Polk declared the meeting adjourned at 12:00 p.m.