

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

January 16, 2014

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chair, Sheila Polk, on Thursday, January 16, 2014, at 10:00 a.m., at the APAAC Office located at 1951 W. Camelback Road, Suite 202, in Phoenix, Arizona.

COUNCIL MEMBERS PRESENT

Sheila Polk	APAAC Chair, Yavapai County Attorney
Brad Carlyon	Navajo County Attorney
Jon Eliason	Mesa City Prosecutor
Douglas Sylvester	Dean, Sandra Day O'Connor College of Law, Arizona State University
Derek Rapier	Greenlee County Attorney
Ed Rheinheimer	Cochise County Attorney
Tony Rogers	La Paz County Attorney
Tobin Sidles	Oro Valley Town Prosecutor
P. Rob Walecki	Glendale City Prosecutor (telephonic)

COUNCIL MEMBERS PRESENT BY PROXY

David Byers	Arizona Supreme Court Proxy Jerry Landau
Aaron Carreon-Ainsa	Phoenix City Prosecutor Proxy Jessica Breedlove (telephonic)
Baird Greene	Tucson City Prosecutor Proxy William Mills (telephonic)
Tom Horne	Arizona Attorney General Proxy Andrew Pacheco
Barbara LaWall	Pima County Attorney Proxy Kathleen Mayer
Bill Montgomery	Maricopa County Attorney Proxy Mark Faull
George Silva	Santa Cruz County Attorney Proxy Liliana Ortega (telephonic)
Matt Smith	Mohave County Attorney Proxy Sheila Polk
Lando Voyles	Pinal County Attorney Proxy Richard Wintory (telephonic)

STAFF PRESENT

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

VISITORS

Kristine Hamann	Visiting Fellow, Department of Justice, Bureau of Justice Assistance (videoconference)
Nickolas Olm	Legislative Intern
Chelsea Stacey	Legislative Intern

CONSENT AGENDA

Mr. Tobin Sidles made a motion, seconded by Mr. Mark Faull, to approve the minutes from the December 4, 2013, Council meeting. Motion carried.

BEST PRACTICES PRESENTATION

Ms. Kristine Hamann was unable to give her presentation due to audio/visual technical difficulties.

CHAIR'S REPORT

Ms. Polk introduced and welcomed the newest member to the Council, Dean Douglas Sylvester, from Arizona State University's Sandra Day O'Connor School of Law.

Ms. Polk attended the recent legislative luncheon hosted by Sen. Kimberly Yee and Rep. Karen Fann on January 15, 2014, at the House of Representatives Building. Ms. Polk and MATFORCE Director Merilee Fowler gave their "Marijuana Harmless? Think Again!" presentation to raise awareness among lawmakers for the upcoming session. MATForce will offer the PowerPoint to those legislators who were unable to attend and may consider bringing "train the trainer" instruction on this presentation to other agencies.

Ms. Polk presented for review a resolution being distributed by MATForce to leaders within local communities for their signature and commitment to oppose the legalization of marijuana. Mr. Faull provided an addendum to the resolution, prepared by the Maricopa County Attorney's Office, for possible inclusion in the proposed MATForce resolution. Discussion ensued. Ms. Polk asked Mr. Faull to condense both proposed resolutions into a modified one-page draft for consideration at the next Council meeting.

EXECUTIVE DIRECTOR'S REPORT

Ms. Elizabeth Ortiz provided the nomination criteria and form for Council members to use when nominating their candidate for APAAC's Victim Advocacy Excellence Award to be presented at the upcoming 2014 Victims' Rights Week Celebration. Nomination forms should be submitted to Elizabeth.Iniguez@apaac.az.gov by February 28, 2014, to be voted on at the March Council meeting. The date for the Victims' Rights Week Celebration in Phoenix has not yet been determined.

Ms. Ortiz and Ms. Kim MacEachern attended the NAPC Winter Conference in Austin, Texas, on December 9-11, 2013. APAAC's "Fast Facts" were discussed and well-received by attendees at the conference.

Ms. Ortiz will attend both the NAPC Board Meeting and the NDAA Capital Conference in Washington, D.C. from February 10-12, 2014. Mr. Derek Rapier and Mr. Tony Rogers will also be attending the NDAA conference.

Ms. Ortiz shared NDAA's recent edition of their national publication, "The Prosecutor" which featured an article with photos depicting APAAC's 2013 Summer Conference Award recipients.

Ms. Ortiz reminded Council that she will appear on behalf of APAAC on the Navajo County public access channel in January, along with Mr. Brad Carlyon and the Navajo County Sheriff.

FINANCE COMMITTEE REPORT

Mr. Rapier presented APAAC's Financial Reports for November, 2013, as previously reviewed by the Finance Committee, for approval by the Council. Mr. Rapier made a motion, seconded by Mr. Tobin Sidles, to approve the November 2013 Financial Reports. Motion carried.

LEGISLATIVE POLICY COMMITTEE REPORT

Mr. Carlyon recommended the Council vote on Legislative Policy Committee (LPC) proposed bills for consideration, with the exception of agenda items B, D, and E, which were pulled for discussion and separate vote.

Mr. Sidles made a motion, seconded by Mr. Rapier, to accept the APAAC position recommended by LPC on agenda items A, C, F, G, H, I, J, and K. The motion carried, with Mr. Jerry Landau and Dean Sylvester abstaining.

Item B – LPC recommended a neutral position on HB2003, concerning civil and criminal penalties involving watercraft. Mr. Carlyon made a motion, seconded by Ms. Kathleen Mayer, for APAAC to remain neutral on HB2003. Motion carried, with Dean Sylvester abstaining.

Item D – LPC recommended Council support the proposed NCNR legislation, which APAAC has supported in the past as a Pima County Attorney’s Office bill. Current bill’s sponsor is Sen. Adam Driggs. Mr. Carlyon made a motion, seconded by Mr. Rheinheimer, that APAAC support the proposed NCNR legislation and, further, that it be run as an APAAC bill. Motion carried, with Mr. Landau and Dean Sylvester abstaining.

Item E – LPC recommended Council support the proposed amendment to ARS §13-107 addressing the current statute of limitations on homicides, which currently does not include “conspiracy to commit homicide.” The bill’s sponsor is Rep. Justin Olson. Mr. Carlyon made a motion, seconded by Mr. Rapier, that APAAC sponsor and support the proposed amendment. Motion carried, with Mr. Landau and Dean Sylvester abstaining.

Mr. Carlyon announced that LPC will be meeting at APAAC immediately following the Council meeting today; all are welcome to attend and participate.

RULES COMMITTEE REPORT

Ms. Liliana Ortega stated that the Rules Committee did an initial review of the proposed rule amendments. Presently, Rule 12.10, which is a new amendment being proposed by the Yavapai County Public Defender’s office, will be submitted to working group to consider and provide input to the Rules Committee, for future reporting to the Council. Comments are due May 20, 2014.

TRAINING COMMITTEE REPORT

Mr. Sidles announced that the Training Committee met recently to discuss and decide on the breakout sessions for APAAC’s 2014 Summer Conference. Mr. Sidles also referred Council to the agenda attachment for a listing of APAAC’s recent and upcoming seminars.

LA PAZ COUNTY BOARD OF SUPERVISOR PROCLAMATION

Mr. Rogers provided APAAC with a public proclamation jointly issued by his office and the La Paz County Board of Supervisors thanking APAAC and its Council members for their joint effort in assisting La Paz County Attorney’s office with conflict cases last year.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION; CFR 384.225 PROHIBITION ON MASKING CONVICTIONS

Mr. Landau advised of a concern recently brought to the courts’ attention by the Motor Vehicle Division of the Arizona Department of Transportation (ADOT) that diversion programs offered by prosecutors to CDL and CLP holders may be in violation of a federal regulation that prohibits masking convictions. The potential impact would be the withholding of federal highway funds. Mr. Landau advised ADOT to contact Ms. Ortiz for any discussion concerning the prosecutors’ perspective on this issue.

LAW SCHOOL FELLOWSHIP PROGRAM

Ms. Ortiz reported on APAAC's survey results concerning the overall budgetary priority for continued funding of the Truman Young (ASU) and Udall (UofA) Fellowships. Ms. Ortiz stated that the majority of the Council offices polled had no strong opinion either way. Ms. Ortiz reminded Council that APAAC is already committed to fund both fellowships for the 2014-15 academic year, which will impact APAAC's 2014-15 budget. The issue before Council today concerns funding priority for APAAC's 2015-16 budget year. The Training Committee has recommended low priority funding for the fellowship program. Ms. Ortiz asked the Council for a decision before APAAC'S budget review meetings, which commence in March 2014.

Ms. Mayer made a motion, seconded by Mr. Faull, to form a working group to examine both fellowship programs, to design the criteria for the candidates and goals for the program, and to recommend their funding priority and structure to the APAAC staff prior to the Council meeting on March 21, 2014. Motion carried.

Members of the fellowship working group are Ms. Mayer, Mr. Sidles, Mr. Bill Montgomery/Mr. Faull, Mr. Ed Rheinheimer, Dean Sylvester and Ms. MacEachern.

APAAC SUMMER CONFERENCE WELCOME RECEPTION

Ms. Polk related to Council that in past years APAAC has hosted a welcome reception at its Summer Conference and contracted with the hotel to provide margaritas. Ms. Polk and Ms. Ortiz reviewed APAAC's history of including alcohol at this event, and now propose discontinuing that practice. Ms. Polk advised that the upcoming 2014 Summer Conference at the Westin La Paloma will have a vendor sponsoring the cost of alcohol at the reception. Further, APAAC's contract with Starr Pass for the 2015 Summer Conference provides for complimentary alcohol at the reception.

Mr. Sidles made a motion, seconded by Mr. Jon Eliason, to eliminate alcohol from all future Summer Conference welcome receptions, beginning with the 2015 contract with Starr Pass. The motion passed, with Mr. Carlyon and Ms. Mayer opposing.

Ms. Polk stated that APAAC's activity fund, used primarily to receive Summer Conference registration fees and pay expenses related to the conference and specifically, its welcome reception, is now being consolidated with the main APAAC bank account.

CALL TO THE PUBLIC

Mr. Jerry Landau stated that the Administrative Office of the Courts is assembling the committee responsible for coordinating the code tables, as tasked by the Council last year. The committee is seeking a member from a County Attorney's office; Ms. Mayer volunteered on behalf of Pima County Attorney's Office.

Mr. Landau introduced Nickolas Olm from the University of Arizona and Chelsea Stacey from Arizona State University, who were selected for this session's legislative internship program.

NEXT COUNCIL MEETING

The next Council meeting is scheduled for Friday, February 21, 2014, at 10:00 a.m. in the APAAC office.

ADJOURNMENT

Ms. Polk declared the meeting adjourned at 12:05 p.m.