

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

September 6, 2013

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chair, Sheila Polk, on Friday, September 6, 2013, at 10:00 a.m., at the APAAC Office which is located at 1951 W. Camelback Road, Suite 202, 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
Aaron Carreon-Ainsa	Phoenix City Prosecutor
Jon Eliason	Mesa City Prosecutor
Baird Greene	Tucson City Prosecutor (telephonic)
Tom Horne	Arizona Attorney General
Marc Miller	Dean, James E. Rogers College of Law, University of Arizona
Bill Montgomery	Maricopa County Attorney
Derek Rapiere	Greenlee County Attorney
Tony Rogers	La Paz County Attorney
Tobin Sidles	Oro Valley Town Prosecutor
Lando Voyles	Pinal County Attorney
P. Rob Walecki	Glendale City Prosecutor (telephonic)

COUNCIL MEMBERS PRESENT BY PROXY

Barbara LaWall	Pima County Attorney Proxy Amelia Cramer
Ed Rheinheimer	Cochise County Attorney (telephonic) Proxy Brian McIntyre
George Silva	Santa Cruz County Attorney (telephonic) Proxy Tom O'Sullivan
Matt Smith	Mohave County Attorney Proxy Sheila Polk

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Kim MacEachern	Staff Attorney
Diana Cooney	Office Manager
Jennifer DePoorter	Administrative Assistant

VISITORS

Karen Hobbs	La Paz Chief Deputy County Attorney
Kellie Johnson	Pima Chief Criminal Deputy County Attorney
Amy Love	Legislative Liaison, Arizona Supreme Court
Kathleen Mayer	Pima Deputy County Attorney
Melissa Rueschhoff	DTAP Program Director, Pima County
Donielle Wright	Greenlee Chief Deputy County Attorney

CONSENT AGENDA

Mr. Tobin Sidles made a motion, seconded by Mr. Bill Montgomery, to approve the consent Agenda. Motion carried.

PIMA COUNTY DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAM

Ms. Amelia Cramer introduced Ms. Melissa Rueschhoff, Director of Pima County's Drug Treatment Alternative to Prison (DTAP) program. Ms. Rueschhoff presented the Council with information on this newly implemented program, which, while not a diversion program, deals with third offense drug offenders who meet the program's criteria, to avoid prison and receive drug treatment and counseling with the goal to return them to society with functional life and vocational skills.

Mr. Sidles made a motion, seconded by Mr. Montgomery, for the Council to support the discussion moving forward on the DTAP program model. Discussion followed. Motion carried.

CHALLENGES & OPPORTUNITIES FOR AMERICAN LAW SCHOOLS

Dean Marc Miller of the University of Arizona's James E. Rogers College of Law, spoke about the challenges faced by law schools due to the recent drastic decline in applications, and the opportunity this has provided the state's law schools to redefine certain aspects of their applicant recruitment and job placement for graduates. To that end, Dean Miller stated that UA is striving to diversify and introduce new programs, and to better prepare and transition third year law students from the academic arena to real world practice.

Dean Miller encouraged both large and small county offices to consider training and/or providing job opportunities for state law school graduates. Also, he asked Council members to come to UA and tap into their resources for research, interns, etc.

Dean Miller invited prosecutors to take advantage of free CLE hours on the topic of Criminal Law Policy that UA College of Law offers over the lunch hour every Wednesday.

Dean Miller addressed the issue of sentencing reform – a subject that he has researched and written on extensively. He has met with several county agencies on this subject already and welcomes the opportunity to continue that dialogue on modern guideline reform if there is any interest and invited Council members to contact him in that regard.

AACo SALARY TASK FORCE

Mr. Montgomery shared information from the Arizona Association of Counties, recapping the discussion of AACo's Salary Task Force and providing a summary of general salary information for statutory positions ARS §§11-419 or 12-281. Mr. Montgomery asked Council members to consider responding to the three questions presented by the Task Force by sending their input directly to him via email so he can collate the information and share it at the next meeting of the Salary Task Force on October 4, 2013, at 10:00 a.m.

APAAC VICTIM RIGHTS' AWARD

Ms. Elizabeth Ortiz provided a draft of the nomination criteria and nomination form for the new APAAC Victim Advocacy Excellence Award to be presented to an Arizona prosecutor or victim advocate at the annual Victim Rights Week Celebration luncheon held in April. The nomination and selection process will be similar to that for APAAC's summer conference attorney awards.

Mr. Sidles made a motion, seconded by Mr. Jon Eliason, to support as drafted the APAAC Victim Rights' Award criteria. Motion carried.

At the next Council meeting, she will also provide the award's nomination and selection timeline leading up to the luncheon in April 2014.

TRUMAN YOUNG AND UDALL FELLOWSHIPS

Ms. Kim MacEachern provided an overview of the two fellowships that APAAC sponsors: namely, the University of Arizona's Udall Fellowship and Arizona State University's Truman Young Fellowship. The goal is to provide a career path in prosecution for a promising third year law student; the student receives course credit for working in 4 prosecutions offices along with a \$10,000 stipend. The selection process for the respective fellowship involves representatives from each of work sites. Ms. MacEachern reports that it has been very difficult to track the fellow during the fellowship and especially post-graduation. APAAC has learned that the Phoenix of Law also has an interest in implementing a similar program.

Ms. Ortiz added that APAAC has made a commitment to fund the two existing fellowships for the 2014-15 school year. She asked the Council to consider whether these fellowships are the best use of APAAC's training and financial resources. Based on the timeline involved, the Council will need to make a decision within the next several months regarding whether to continue to fund these fellowships beyond the 2014-2015 school year.

Mr. Derek Rapier made a motion, seconded by Mr. Brad Beauchamp, to table this discussion for one month to allow Council's further review of the program's merits and determine the next step. Motion carried.

FINANCE COMMITTEE REPORT

Mr. Rapier shared the current Financial Reports, which are in a new format due to the new bookkeeping software implemented for the new fiscal year. Discussion ensued.

Mr. Rapier made a motion, seconded by Mr. Sidles, to approve the Financials for July 2013. Motion carried.

CHAIR'S REPORT

Ms. Sheila Polk reports that the Rules Committee prepared a timeline for considering rule changes for fiscal year 2013-14, which will be distributed post-meeting via email. The Rules Committee has proposed this timeline as the best approach to allowing timely review and gathering input for timely preparation.

Ms. MacEachern previously sent the timeline to the APAAC Rules Committee for input concerning the State Bar's October 1, 2013, deadline to receive proposals for review. All petitions for proposed rule changes are due to the Supreme Court by January 10, 2014. The APAAC Rules Committee's initial review is slated for January 24, 2014, and Chief Deputies must provide input by February 28, 2014, at which time the Rules Committee will assign drafting responsibilities. Initial drafts circulated for edits by March 14, 2014, so final draft can be submitted considered by the Council at the April 24, 2014, meeting. Final drafts must be submitted to Council Chair by May 16, 2014, for signing, in order to meet the Supreme Court's comment filing date of May 20, 2014.

Ms. Polk introduced the Council to Jennifer DePoorter, who joined the APAAC team on August 26, 2013, in her new position as administrative assistant.

EXECUTIVE DIRECTOR'S REPORT

Ms. Ortiz reports she has been in La Paz County to attend court matters on the conflict case she is handling in that jurisdiction. She will be in La Paz County again on September 20, 2013, and offered to provide training for their office over the lunch hour.

Regarding the recent *amicus* brief filed by APAAC in the matter of *State v. Cooperman*, the Arizona Supreme Court issued an opinion on August 5, 2013, affirming the trial court and the Court of Appeals.

Ms. Ortiz announced a change in time from 10:00 a.m. to 2:00 p.m. for the July 29, 2014 Council meeting held in conjunction with APAAC's 2014 Summer Conference in Tucson.

As Chair of the State Bar's CLE Committee, Ms. Ortiz continues to work on their training program ideas and help develop their "Train the Trainer" course. In an effort to increase the involvement of prosecutors in training for the State Bar, any Council office with someone interested in teaching may contact Ms. Ortiz, who will assist in coordinating that effort.

As a board member for the National Association of Prosecuting Coordinators (NAPC) and Chair of their Information and Communications Committee, Ms. Ortiz recently attended the

NAPC board retreat, which was a valuable opportunity to learn from their ongoing organizational analysis and network with members from other state prosecuting agencies.

Ms. Ortiz reported that the Conference of Western Attorney Generals (CWAG), which coordinates the training of Mexico's prosecutors as they move toward an oral trial system, was recently in Phoenix for their "Train the Trainer" program and Trial Advocacy course. If any Council office is interested in training for CWAG, please contact Ms. Ortiz.

Ms. Ortiz previously sent out information to Council members concerning the Arizona Coalition Against Domestic Violence's 4th Annual Gala Celebration and Awards Dinner on September 18, 2013. APAAC is assisting with planning the event, many Council offices are sponsoring tables, and those attending should advise Ms. Ortiz so appropriate recognition can be given at the event.

Ms. Ortiz is a board member for the National Association of Justice Information Systems (NAJIS), an organization that focuses on the information systems used by the criminal justice system. Ms. Ortiz will be attending the NAJIS conference next week.

Ms. Ortiz and Mr. Brad Carlyon sit on the committee that determines how the JR Justice Grant will be distributed between prosecutors and public defenders. The 2013 grant was approved for \$1690.00 to each recipient, which is a 2.7% decrease from 2012. The award funds are to be used toward paying down student loans. APAAC will send out information regarding the next application process beginning in mid-September, with an October/November due date. Applications are submitted to AOC as the grant administrator.

STAFF ATTORNEY'S REPORT

Ms. MacEachern attended the Coconino County Domestic Violence (DV) and Sexual Assault Leadership Summit on August 9, 2013, in Flagstaff, AZ. She reported they have an effective model for addressing DV topics, including the statewide fatality review coordinated response. Ms. MacEachern is working on bringing a presentation on this topic to a future Council meeting. She also attended the Maricopa Association of Governments protocol evaluation project on the new DV protocol being used by law.

Ms. MacEachern reported on the Public Education Working Group's effort to improve the prosecution community's public relations and ability to communicate with the public on various hot topics, including: Prosecutor Misconduct, Marijuana, Juvenile Justice, and RICO. The working group has put together "Fast Fact" sheets for each topic to provide talking points, including a list of the objective sources cited. The plan is to distribute this as a fact-based resource if the opportunity arises to speak to the media, the public or a constituency. The group will finalize the Fast Fact sheets within the next week or so for distribution.

APAAC's Medical Marijuana Working Group met on July 31, 2013. The group is developing a substantial resource of information that will be helpful to offices dealing with these cases. Two PowerPoint presentations have been prepared, one on marijuana, and the second is an overview of the nuts and bolts of the Arizona Medical Marijuana Act. The group will update current legal issues and recent court cases via DropBox so information can be shared with law enforcement and for training purposes.

LEGISLATIVE POLICY COMMITTEE REPORT

The LPC has been soliciting ideas for the upcoming legislative session; however, no new items have been received to date. Several issues from last session are being revisited: namely, Pima County's proposed bills addressing dangerous and incompetent defendants, prosecutor presence at the interview of a minor, and tampering with a witness. One proposed bill from last session that may be readdressed involves possession of marijuana at a child care facility. The LPC will also be exploring a proposal to address blood draws in DUI cases. Any additional ideas for bills should be directed to Ms. MacEachern immediately for consideration in this year's legislative session.

The next meeting of the LPC is scheduled at 2:00 p.m. on Friday, October 4, 2013, at the APAAC office.

RULES COMMITTEE REPORT

Ms. MacEachern reported that the new rule regarding juvenile victims' names being redacted from documents in criminal cases went into effect on September 1, 2013. As of January 1, 2014, there are a number of rules that are going into effect: jurors' oaths; defense counsel evaluation of plea agreements; the time for the State to act after filing a motion for a new finding for probable cause is granted; the Rule 32.4 timeline for filing a petition of post-conviction relief (PCR) in a capital case is extended to 18 months; and, one dealing with bond forfeiture procedures.

The Attorney General's Office submitted a rules proposal for changing the method of PCR activity on capital cases. In light of the Supreme Court's reopening comments on the petition to extend the PCR filing to 18 months, the Rules Committee will continue to monitor the proposal.

Proposed amendment to 11-0033 R 42, ER 3.8 regarding prosecutor's responsibilities is a revised proposed amendment and reopened for comment due October 25, 2013.

TRAINING COMMITTEE REPORT

Mr. Sidles reported there were 477 attendees at APAAC's 2013 Summer Conference, and the evaluations showed very favorable comments. There are pictures from the conference on the APAAC website.

APAAC, with technical assistance from the Maricopa County Attorney's Office, has also launched a new training program called "APAAC on Demand". Each month APAAC will post a new original 1-1.5 hour online course under the "Training" section of its website. Check the APAAC website for more information and the schedule of On-Demand trainings.

The next meeting of the Training Committee is scheduled at 10:00 a.m. on Friday, September 27, 2013, at the APAAC office.

CALL TO THE PUBLIC

Mr. Rapier shared a discussion he had with Mr. Craig Sullivan the Executive Director for the County Supervisors Association on the topic of possible upcoming legislation on restructuring the offices of County Attorney and County counsel. Mr. Sullivan encouraged Council members to have a discussion with their County administrators on this subject.

Ms. MacEachern reminded Council Members to visit www.azsentencing.org on a regular basis for the latest developments. She also encouraged Council members to send APAAC any related media clips, articles, etc., for posting on that website to keep it active and vibrant.

Mr. Montgomery suggested that interested persons listen to the podcast from his recent KTAR radio appearance regarding sentencing, which includes an interview with Mona Lynch of UC Irvine who authored Sunbelt Justice.

Ms. Ortiz reported that the NDAA publication "The Prosecutor" will feature the attorney awards from APAAC's 2013 Summer Conference.

NEXT COUNCIL MEETING

Ms. Polk announced that the next Council meeting will be held at 10:00 a.m. on Thursday, October 17, 2013, at the APAAC office.

ADJOURNMENT

Ms. Polk declared the meeting adjourned at 12:20 p.m.