

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

January 11, 2013

The special meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chair, Sheila Polk, on Friday, January 11, 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 (telephonic)
Brad Beauchamp	Gila County Attorney
Brad Carlyon	Navajo County Attorney
Jon Eliason	Mesa City Prosecutor
Tom Horne	Arizona Attorney General
Barbara LaWall	Pima County Attorney (telephonic)
Marc Miller	Dean, UofA James E. Rogers College of Law (telephonic)
Bill Montgomery	Maricopa County Attorney
Derek Rapiere	Greenlee County Attorney (telephonic)
Ed Rheinheimer	Cochise County Attorney
Tony Rogers	La Paz County Attorney
Tobin Sidles	Oro Valley Town Prosecutor
Lando Voyles	Pinal County Attorney

COUNCIL MEMBERS PRESENT BY PROXY

David Byers	Arizona Supreme Court Proxy Jerry Landau
Aaron Carreon-Ainsa	Phoenix City Prosecutor (telephonic) Proxy Jessica Breedlove
Baird Greene	Tucson City Prosecutor (telephonic) Proxy William Mills

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Kim MacEachern	Staff Attorney
Denise Helm	Executive Assistant
Diana Cooney	Legal Secretary II
Krystle Fernandez	APAAC Extern

VISITORS

Paula Alleman	Assistant Attorney General
Rebecca Baker	Maricopa Deputy County Attorney (Proxy at 11:30)
Kent Cattani	Assistant Attorney General
Kathleen Mayer	Pima Deputy County Attorney
Marianne Sullivan	Attorney General's Office
James Walsh	Former Pinal County Attorney

CONSENT AGENDA

Ms. Sheila Polk introduced the items for approval on the consent agenda. Item A – minutes from the three prior Council meetings: First held on October 25, 2012; and two subsequent Special Council meetings held on November 2, 2012 and December 18, 2012; and, Item B – APAAC's Financial Report.

Ms. Barbara LaWall requested Item B, APAAC financial report, be pulled from the consent agenda for further discussion.

Mr. Tobin Sidles made a motion, seconded by Mr. Bill Montgomery, to approve Item A on the Consent Agenda. Motion carried.

Ms. Polk asked Ms. Elizabeth Ortiz to provide an update on APAAC's financial report.

Ms. Ortiz presented an overview of APAAC's current financial situation and the proposed amended budget for the remaining fiscal year 2012-2013, which was slated for discussion later in the agenda.

Mr. Sidles made a motion, seconded by Mr. Montgomery, to approve Item B on the consent agenda. Motion carried.

CHAIR'S REPORT

Ms. Polk bid farewell to Mr. James Walsh, former Pinal County Attorney, and provided him with a plaque and well wishes as he leaves the Council.

Ms. Polk welcomed to the Council its newest members: Gila County Attorney Brad Beauchamp, La Paz County Attorney Tony Rogers, Pinal County Attorney Lando Voyles and Dean Marc Miller of the University of Arizona's James E. Rogers College of Law. Each of the new members made introductory remarks and thanked the Council for the warm welcome.

Ms. Polk referred the Council to the updated list of APAAC Committee assignments for 2013, which can be found as a permanent reference in the back of the members' Council books.

Ms. Polk reported on the CWAG training, run by U.S. State Department. In November of 2012, Ms. Polk and Ms. Ortiz traveled to Mexico City to help train 30 Mexican prosecutors for CWAG.

EXECUTIVE DIRECTOR'S REPORT

Ms. Ortiz provided an update on the status of various amicus briefs filed by APAAC. In the matter of *Missouri v. McNeely*, APAAC lent its name to the NDAA amicus brief, which was argued in front of the US Supreme Court on January 9, 2013. APAAC filed its own brief in the matter of *State v. Cooperman*, which is pending before the Arizona Supreme Court. APAAC also filed its own brief in the matter of *Montgomery v. Bassett [Cuen, RPI]*, a special action before the Arizona Court of Appeals, currently pending jurisdiction ruling.

Ms. Ortiz provided an update on the John R. Justice Loan Repayment Program. This is the third year of the program, and funding has decreased 56% from the previous year. The prosecution grant awardees will each receive \$1492.79 to apply toward their outstanding student loan balances.

Ms. Ortiz reported that she has visited the Mohave County Attorney's Office on November 7, 2012, and the Coconino County Attorney's Office on December 4, 2012, in her continuing efforts to reach out to all Council offices on behalf of APAAC to offer training and resources.

Ms. Ortiz introduced APAAC's new opportunity to support the prosecution community. Each month, APAAC will feature on its website and on Facebook one prosecutor and one support staff member from each of the Council offices, based on the monthly schedule assignment attachment provided.

Ms. Ortiz stated that APAAC has recommended Ms. LaWall and Mr. Rogers for consideration by the governor for the DUI Abatement Council.

Ms. Ortiz advised the Council of upcoming personnel changes at APAAC as the result of Ms. Denise Helm's retirement in September 2013. The plan is for Ms. Diana Cooney to transition into that position. APAAC will then hire a new legal secretary.

NDAA REPORT

Ms. Polk reported that APAAC has paid the NDAA dues in years past for those Council offices with memberships. As a result of APAAC's proposed budget cuts, Ms. Polk recommended that the individual offices pick up that cost going forward if the member wishes to maintain the membership. Discussion was held.

Mr. Sidles made a motion, seconded by Mr. Ed Rheinheimer, that APAAC cease paying NDAA dues and pending invoices to the respective offices for consideration of their continued individual memberships and payment of dues. Motion carried.

Ms. Polk stated that Mr. Derek Rapier has offered to serve as Arizona's delegate on the NDAA Board of Directors to represent the state's interest, attend the four meetings each year, and report back to the Council. Mr. Rapier's county will bear the related travel cost.

Mr. Montgomery made a motion, seconded by Mr. Sidles, to close nominations. Motion carried. Mr. Rapier was unanimously chosen as the new Arizona State Director to the NDAA Board of Directors.

Ms. Polk indicated that the NDAA Capitol Conference will be held on February 11-13, 2013. APAAC will not cover members' travel costs related to attending this conference; however, participation is encouraged on behalf of the prosecution community. Mr. Carlyon will be attending and urged others to coordinate efforts to be there.

APAAC BUDGET

Ms. Ortiz reported that due to decreased revenue, APAAC is proposing a revised budget for the remaining fiscal year, as reflected in the agenda attachment provided for Council's review. Discussion was held on the expense areas to be affected by the cuts.

Mr. Sidles made a motion, seconded by Mr. Jon Eliason, to adopt the proposed amended budget. Motion carried.

APAAC AMICUS POLICY

Ms. Ortiz proposed a revised draft of the current APAAC amicus policy to address the logistical difficulty created by the current policy which requires a full vote of the Council. The proposed revision allows the Executive Committee to meet and vote on future requests.

Mr. Sidles made a motion, seconded by Mr. Rheinheimer, to adopt APAAC's new Amicus Curiae Policy. Motion carried. Mr. Jerry Landau abstained.

STANDARDIZATION OF CRIMINAL CODE TABLES

Ms. Kim MacEachern introduced a proposal by ACJC for the use of standardized criminal code tables with a universal group (possibly APAAC) to manage oversight of the process from year to year. Others involved in the planning process are Marianne Sullivan of the Arizona Attorney General's office; Joe Sweeney, IT person with Pima County Attorney's office; and, Patrick Scott with the Arizona Courts. Information was also provided concerning a National Criminal History Improvement Program grant for possible funding. Discussion was held.

Mr. Landau made a motion, seconded by Mr. Eliason, to table this proposal so further information can be obtained and reported back to the Council. Motion carried.

ARIZONA ASSOCIATION OF COUNTY ORGANIZATIONS REPORT

Mr. Carlyon announced that the National Association of Counties' Legislative Conference in Washington D.C. will be held March 2-6, 2013. The conference is a great opportunity to meet with Arizona's congressional delegates and give a voice to criminal justice and the prosecution community at the national level. At the state level, AACo is taking more of an advocacy role and preparing a video explaining what the counties do.

TRAINING COMMITTEE REPORT

Mr. Sidles presented the schedule of recent and upcoming APAAC seminars. Mr. Sidles provided an additional training date by Mr. Richard Wintory in Coconino County on December 14, 2012.

Mr. Sidles extended appreciation to Mr. Wintory for all of the training sessions provided under his training consultant contract with APAAC. Because Mr. Wintory is now the Chief Deputy in the Pinal County Attorney's Office, the parties mutually agreed to terminate the training consultant contract. Mr. Wintory graciously offered to continue to train for APAAC, and to accept no compensation for his services.

LEGISLATIVE POLICY COMMITTEE REPORT

Mr. Carlyon reported on the recommendations from the recent LPC meeting on January 9, 2013, and asked that the Council voting procedure be by category: Support, Oppose, Neutral and Information.

Mr. Carlyon made a motion, seconded by Mr. Sidles, to support all the bills in the Support category of the LPC report (items B, C1, C2, C3, F, G, K1, R1, and S). Item T-Novelty Powders, was removed for further discussion. Motion carried. Mr. Landau abstained as to item F-Criminal Cleanup Draft 0247.

Mr. Carlyon made a motion, seconded by Mr. Sidles, to oppose all the bills in the Oppose category of the LPC report (items A4, A6, and P). Motion carried. Mr. Landau abstained. Ms. Rebecca Baker abstained as to A4-Bail Bond #4/Bill 13-3974.

Mr. Carlyon made a motion, second by Mr. Sidles, to be neutral on all the bills in the Neutral category of the LPC report (items A1, A2, A3, D, E, I, J, M, Q, and K4). Motion carried.

Mr. Carlyon made a motion, seconded by Mr. Sidles, to table the bills in the Info category of the LPC report (items H, N, and O). The Info bills do not require a vote and may be revisited in February. Motion carried.

Mr. Carlyon indicated deleting items A5, a dead bill, and R2, which LPC is dropping,

Mr. Carlyon withdrew items K2 and K3, concerning medical marijuana. If the courts issue decisions then LPC may return those bills to the Council for consideration.

Mr. Carlyon made a motion to support item T-Medical Marijuana Repeal; HCR2003 and for Council members to be engaged more broadly, even beyond APAAC. Discussion ensued. Mr. Eliason seconded the motion to support HCR2003 and to continue the discussion in the APAAC working group. Motion carried. Mr. Landau abstained.

Mr. Carlyon made a motion, seconded by Mr. Sidles, to support item T-Novelty Powders. Discussion ensued. Motion carried. Mr. Landau abstained.

PUBLIC AWARENESS CAMPAIGN

Mr. Carlyon proposed APAAC and the respective member offices work on a public awareness campaign utilizing office websites, Facebook, and Twitter, regarding prosecution and public safety issues. Mr. Carlyon recommended Ms. Ortiz and Ms. MacEachern look at options to develop a plan to promote this campaign and to report their findings at the February 2013 Council meeting.

Mr. Marc Miller offered to share useful ideas from UofA Law School with APAAC on this topic.

UPDATE ON MEDICAL MARIJUANA LAWSUIT

Mr. Montgomery provided an update on Maricopa County's current medical marijuana lawsuit. He stated oral argument was made at the trial court level. Following the court's decision, Mr. Montgomery's office filed an appeal, but a stay was denied.

Mr. Tom Horne, who is also a party to the suit and was involved in the trial court argument, echoed Mr. Montgomery's confidence regarding the appeal.

CALL TO THE PUBLIC

Mr. Kent Cattani announced that the Forensic Science Academy started on January 25, 2013.

NEXT COUNCIL MEETING

Ms. Polk announced that the next Council meeting will be held on Thursday, February 21, 2013, at 10:00 a.m. in the APAAC office.

ADJOURNMENT

Ms. Polk declared the meeting adjourned at 12:30 p.m.