

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL  
MINUTES

August 5, 2016

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by APAAC Chair Sheila Polk on Thursday, August 5, 2016, at 9:00 a.m. at the Prescott Resort and Conference Center in Prescott, Arizona.

COUNCIL MEMBERS PRESENT

Sheila Polk	APAAC Chair, Yavapai County Attorney
Brad Carlyon	APAAC Vice Chair, Navajo County Attorney
John Belatti	Mesa City Prosecutor (telephonic)
Brian McIntyre	Interim Cochise County Attorney
Alan Merritt	Tucson City Prosecutor (telephonic)
Bill Montgomery	Maricopa County Attorney
Derek Rapier	Greenlee County Attorney
Tony Rogers	La Paz County Attorney
Tobin Sidles	Oro Valley Town Prosecutor

COUNCIL MEMBERS PRESENT BY PROXY

Brad Beauchamp	Gila County Attorney Proxy Tony Rogers
Mark Brnovich	Arizona Attorney General Proxy Paul Ahler
Barbara LaWall	Pima County Attorney Proxy Amelia Cramer (telephonic)
Matt Smith	Mohave County Attorney Proxy Sheila Polk
Michael Whiting	Apache County Attorney Proxy Sheila Polk

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Diana Cooney	Office Manager

GUESTS PRESENT

Andrew LeFevre	Executive Director, Arizona Criminal Justice Commission
Amy Love	Arizona Supreme Court, Administrative Office of the Courts (telephonic)

CONSENT AGENDA

Ms. Sheila Polk presented the consent agenda, including minutes from the June 14, 2016, Council meeting, for approval. Mr. Tobin Sidles made a motion, seconded by Mr. Bill Montgomery, to accept the consent agenda. Motion carried.

## CHAIR'S REPORT

Ms. Polk and several other Council members will participate in a September 2016 planning session of the Arizona Criminal Justice Commission ("ACJC") research project to strategize how ACJC can take a leadership role in criminal justice issues. Ms. Polk requested and received input from Council members on issues for ACJC discussion. Mr. Andrew LeFevre, on behalf of ACJC, added that a subcommittee chaired by Oro Valley Chief of Police Sharp will look into the issue of CJEF revenue and funding the criminal justice system. Mr. Montgomery recommended a different research perspective, namely: What does the overall criminal justice system cost Arizona, what amount is needed, and how to fund it?

## EXECUTIVE DIRECTOR'S REPORT

Ms. Elizabeth Ortiz attended the National Association of Prosecution Coordinators ("NAPC") conference in Philadelphia, PA, on July 11-13, 2016, where she was sworn in for a one-year term as NAPC president. She also presented the "What You Do Matters" training course at the conference. Ms. Ortiz provided Council members a look at the National Attorneys General Institute's Evidentiary Foundations for Government Attorneys book that can be purchased with a prosecutors' discount code obtained from Ms. Ortiz.

Ms. Ortiz reported on the recent multidisciplinary Sex Offender Guideline Assessment Stakeholder Meeting organized by legislative staff to revise and update the assessment tool created by Dr. Daryl Fisher. The next meeting will be in late September or early October 2016.

APAAC has a seat on the Maricopa Association of Government's multidisciplinary board to create a vulnerable adult protocol. Ms. Ortiz will circulate the final protocol to Council members for consideration within their respective jurisdictions.

Ms. Ortiz and Ms. Polk attended the Arizona Forensic Science Advisory Committee's meeting, which included a presentation on state-of-the-art field testing for drugs. Ms. Ortiz has arranged to partner with the forensic science lab personnel to offer this training as an "APAAC On Demand" CLE course. Mr. Paul Ahler shared that the FBI sent a letter to all state governors on the issue of comparative analysis of hair and fiber evidence in cases involving lab expert testimony. Ms. Polk stated the committee is aware of the FBI's findings and has discussed forming a subcommittee to perform a statewide review so Arizona can be proactive in identifying any problems.

Ms. Ortiz is coordinating with Mr. LeFevre to determine how APAAC and ACJC can continue working together and forge a partnership to benefit the prosecution community.

APAAC plans to partner with the State Bar of Arizona and host a law school for legislators. Ms. Ortiz is reviewing how best to engage the legislators for a higher turnout than experienced in the past; she may involve council members' assistance in contacting their legislators to encourage participation. Ms. Amy Love suggested scheduling an earlier date for the event to avoid scheduling conflicts when the new session starts.

APAAC staff will be performing quarterly outreach in the community during regular work hours. Mr. Brian McIntyre asked that Ms. Ortiz alert Council members of these service projects so their respective agencies can support those efforts. Mr. Brad Carlyon suggested a community outreach project be incorporated into the APAAC annual conferences, such as donations of school supplies or bottled water for the homeless, etc.

Ms. Ortiz provided a proposed 2017 Council meeting schedule for review. She noted that two Council meetings are scheduled in January and February 2017 to accommodate the start of Arizona's legislative session. Ms. Ortiz suggested those early bi-monthly meetings can focus specifically on legislative issues and be held telephonically. Several meetings later in the year are scheduled in conjunction with Arizona Association of Counties ("AACo") meetings, to minimize travel expense. Ms. Ortiz encouraged feedback on the proposed meeting dates and plans to have a refined 2017 schedule at the next meeting.

#### APAAC APPOINTEES FOR LEGISLATIVE STUDY COMMITTEE ON INCOMPETENT, NONRESTORABLE AND DANGEROUS DEFENDANTS

Ms. Polk announced that APAAC is to appoint two members to serve on a legislative study committee formed to review possible legislation on the gap that exists in public safety concerning incompetent, nonrestorable and dangerous defendants. Ms. Barbara LaWall supports the appointment of Ms. Kathleen Mayer, Deputy Pima County Attorney and Legislative Liaison. Ms. Polk recommends Mr. Thomas Stoxen, Chief Civil Deputy Yavapai County Attorney, to serve on the committee. Mr. Carlyon made a motion, seconded by Mr. Montgomery, to appoint Ms. Mayer and Mr. Stoxen to the legislative study committee. Motion carried.

#### FINANCE COMMITTEE REPORT

Ms. Derek Rapier presented APAAC's Financial Reports for June 2016, as recommended for approval by the Finance Committee. Mr. Rapier noted that while fiscal year 2015-16 revenue declined, APAAC staff is proactively reducing expenses overall based on a projected budget that anticipates the continued downward revenue trend. Mr. Rapier made a motion, seconded by Mr. Sidles, to accept the APAAC Financial Reports for June 2016. Motion carried.

#### BEST PRACTICES COMMITTEE REPORT

Ms. Ortiz referred Council to the agenda attachment reporting attendance at the APAAC Annual Prosecutor Conference in June 2016 and the Annual Support Staff Conference in July 2016. Ms. Ortiz announced that APAAC's Appeals for Trial Prosecutors seminar on August 19, 2016, is the new seminar model that does not offer travel expense reimbursement. Attendees may participate either "live" in the APAAC conference center, by "live webcast," or via "APAAC on Demand" which is available 24/7 on the APAAC website. Ms. Ortiz highlighted additional upcoming seminars, including the redesigned Fundamentals of Trial Advocacy course on September 19-23, 2016. Ms. Ortiz announced that the Maricopa County Attorney's Office and the Pinal County Attorney's Office have pledged funds to sponsor APAAC's Arizona Career Prosecutor course on November 14-18, 2016, in Tucson. Ms. Ortiz stated that APAAC is also working to partner with AACo to offer at their 2016 winter conference an APAAC training for newly appointed and/or

newly elected Council members. Ms. Ortiz advised that APAAC is already planning its 2017 Annual Prosecutor Conference and will soon send out a call for presentations. The proposed theme - "Justice for All" - will build on the "What You Do Matters" material.

### PERSONNEL COMMITTEE REPORT

Ms. Ortiz shared that the Personnel Committee met on July 26, 2016, to review APAAC's existing employee handbook (dated August 5, 1990) and a proposed revised employee handbook. The committee recommended approving the proposed employee handbook, as revised, for approval by the Council. Ms. Ortiz noted some potential financial impact to APAAC as a result of the changes. Discussion ensued. Mr. Montgomery made a motion, seconded by Mr. McIntyre, for the Personnel Committee to review APAAC's proposed sick leave policy alongside A.R.S. §38-615 and to consider converting to a Paid Time Off program. Motion carried.

### APAAC LEGISLATIVE & COMMUNICATION LIAISON POSITION DESCRIPTION AND SALARY STEP SCHEDULE

Ms. Ortiz reported that the Executive Committee met with APAAC staff to provide its vision and refocused responsibilities for the newly created Legislative & Communication Liaison position. The Personnel Committee subsequently reviewed and approved the proposed job description and salary step schedule. APAAC staff will work with its HR consultant to craft an employment ad for posting in August 2016, followed by interviews in September 2016, and a target hire dated in October 2016.

### NACo/AACo REPORT

Mr. Carlyon reported that the National Association of Counties ("NACo") held its annual conference in Long Beach, CA, which was attended by Mr. Montgomery and a representative of Pinal County Attorney's Office. Mr. Carlyon encouraged prosecutors to be involved with NACo as part of the national discussion on criminal justice issues, including funding and prison population. A partnership with NDAA was also suggested.

The Arizona Association of Counties ("AACo") has their conference scheduled on December 1-2, 2016, at the Carefree Resort in Carefree, AZ. Mr. Carlyon encouraged Council members to send him any ideas for new criminal justice legislation that AACo may be better suited to sponsor. Mr. Montgomery suggested AACo consider proposing a new salary adjustment bill this session.

### NDAA REPORT

Mr. Rapiere reported on the National District Attorneys Association ("NDAA") Board of Directors Meeting in July 2016. The theme centered around NDAA's finances, including staff changes and the engagement of a consulting firm to recommend a plan to rectify the current fiscal situation. The NDAA Conference also offered several informative and substantive breakout sessions at the conference.

Ms. Ortiz and Mr. Carlyon attended the National Victims' Rights Summit in Boston, MA, which was well-attended and offered good topics for discussion.

Mr. Rapier, on behalf of Minnesota's Dakota County Attorney James Backstrom, asked Council to review the National Juvenile Justice Prosecution Center's Juvenile Prosecution Policy Positions and Guidelines and encouraged Council members to direct to Ms. Ortiz's attention any comments or feedback on the guidelines for Mr. Backstrom.

Mr. Rapier encouraged Council members to attend the NDAA Capital Conference in Washington, D.C., on January 31 - February 2, 2017.

Mr. Rapier will be stepping down as the Arizona Director for NDAA and recommended Mr. Montgomery as his replacement. Mr. Montgomery acknowledged his intention to participate more with NDAA. Mr. Carlyon made a motion, seconded by Mr. McIntyre, to approve Mr. Montgomery as the new Arizona Director for NDAA. Motion carried. Ms. Polk thanked Mr. Rapier on behalf of APAAC for his service at NDAA.

Next NDAA meeting is scheduled for November 2016 in Palm Springs, CA.

### CALL TO THE PUBLIC

Mr. Montgomery attended the Association of Prosecuting Attorneys ("APA") Conference in Boulder, CO, in July 2016 and presented on Arizona's approach to criminal justice issues and unique perspective on crime. He also encouraged the Arnold Foundation to include discussion and input from Arizona's prosecutors when developing its initiatives on criminal justice.

As chair of the Arizona Substance Abuse Partnership, Mr. Montgomery announced a newly formed subcommittee to work with the Arizona Department of Corrections ("ADOC") on a grant ADOC received on substance abuse treatment and recidivism.

Mr. Montgomery, who serves as Chair of the Sexual Assault Kit Task Force, reported that it is currently reviewing protocols being developed statewide on how to investigate sexual assault cases and test the victims.

Mr. McIntyre shared that he noticed a sharp decline in the number of cases for prosecution coming out of his local jails in Cochise County. He asked Council members to send him any related information from their respective jurisdictions for further study.

Mr. LeFevre commented on Mr. McIntyre's request for information and mentioned that ADOC's Director Charles Ryan has created a working group to review the financial impact of housing inmates in County jails versus the state prisons. Further, Mr. LeFevre reiterated, on behalf of ACJC, that he is looking forward to working in partnership with APAAC.

### NEXT COUNCIL MEETING

The next Council meeting is scheduled for Thursday, September 8, 2016, at 1:00 p.m., at the APAAC office.

### ADJOURNMENT

Ms. Polk declared the meeting adjourned at 10:54 a.m.