

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

December 18, 2012

The special meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chair, Sheila Polk, on Tuesday, December 18, 2012, 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 (telephonic)
Jon Smith	APAAC Vice-Chair, Yuma County Attorney (telephonic)
Brad Carlyon	Navajo County Attorney (telephonic)
William Montgomery	Maricopa County Attorney (telephonic)
Tobin Sidles	Oro Valley Town Prosecutor (telephonic)

James Walsh	Pinal County Attorney (telephonic)
-------------	------------------------------------

COUNCIL MEMBERS PRESENT BY PROXY

Aaron Carreon-Ainsa	Phoenix City Prosecutor (telephonic) Proxy Jessica Breedlove
Daisy Flores	Gila County Attorney (telephonic) Proxy Sheila Polk
Baird Greene	Tucson City Prosecutor (telephonic) Proxy William Mills
Tom Horne	Arizona Attorney General (telephonic) Proxy Andrew Pacheco
Barbara LaWall	Pima County Attorney (telephonic) Proxy Sheila Polk
Derek Rapier	Greenlee County Attorney (telephonic) Proxy Sheila Polk
David Rozema	Coconino County Attorney (telephonic) Proxy Sheila Polk

STAFF PRESENT

Diana Cooney	Legal Secretary II
Denise Helm	Executive Assistant
Elizabeth Ortiz	Executive Director

VISITORS

Kent Cattani	Assistant Attorney General (telephonic)
--------------	---

REQUEST FOR AMICUS IN MONTGOMERY V. BASSETT [CUEN, RPI]

Ms. Sheila Polk invited Mr. Bill Montgomery to present the issue for discussion before the Council.

Mr. Montgomery stated that the Maricopa County Attorney's Office is currently prosecuting the case of *Montgomery v. Bassett [Cuen, RPI]*, involving a sexual assault in which the defendant is representing himself pro per, with advisory counsel. The defendant seeks to personally cross-examine the victims at trial.

Mr. Montgomery stated that under the Arizona Constitution and to comply with the Crime Victims' Bill of Rights requirement that a victim be free from intimidation, harassment or abuse, and be treated with respect and dignity – the defendant should not be permitted to cross-examine the victims himself. Instead, the defendant's due process rights as set forth in the federal constitution should be balanced with the victim's rights under the state constitution by requiring defendant to cross-examine the victim through advisory counsel.

The Superior Court having denied a motion to that effect, Mr. Montgomery's office petitioned for special action, and the case has been stayed by the Court of Appeals. Mr. Montgomery maintains that it is critically important that the prosecution community weigh in at this juncture and underscore the fact that the proposed procedure will accommodate the defendant's federal due process rights, as well as Arizona crime victims' rights. Mr. Montgomery added that since the appellate court's order, counsel has been appointed for the defendant for the special action phase.

Ms. Elizabeth Ortiz stated that she has reviewed this request for *amicus* and confirmed that the matter meets all the criteria under APAAC policy. Ms. Ortiz indicated that she would work in conjunction with Ms. Faith Klepper to prepare the *amicus* for filing by the deadline – Friday, December 21, 2012. Ms. Ortiz remarked that the Court of Appeals' order soliciting the *amicus* brief and naming specific agencies, including APAAC, is both extraordinary and significant. Therefore, Ms. Ortiz encouraged the Council to approve the request that APAAC file an *amicus* brief.

Mr. Jim Walsh made a motion, seconded by Mr. Tobin Sidles, to authorize APAAC to file an *amicus* brief in this matter. The motion carried.

CALL TO THE PUBLIC

Mr. Kent Cattani volunteered the services of the Attorney General's office in assisting APAAC in drafting the *amicus* brief.

NEXT COUNCIL MEETING

Ms. Polk announced that the next Council meeting will be held on Friday, January 11, 2013, at 10:00 a.m. at the APAAC office.

ADJOURNMENT

Mr. Jon Smith made a motion, seconded by Mr. Brad Carlyon, to adjourn the meeting at 10:10 a.m. Motion carried.