

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

February 23, 2012

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chair, Sheila Polk, on Thursday, February 23, 2012, at 10:00 a.m., at the APAAC Office which is located at 1951 West Camelback Road, Suite 202, in Phoenix.

COUNCIL MEMBERS PRESENT

Michael Whiting	Apache County Attorney (telephonic)
Ed Rheinheimer	Cochise County Attorney
David Rozema	Coconino County Attorney (telephonic)
Daisy Flores	Gila County Attorney (telephonic)
Derek Rapier	Greenlee County Attorney (telephonic)
Sam Vederman	La Paz County Attorney (telephonic)
Bill Montgomery	Maricopa County Attorney
Matt Smith	Mohave County Attorney (telephonic)
Brad Carlyon	Navajo County Attorney
Barbara LaWall	Pima County Attorney (telephonic)
James Walsh	Pinal County Attorney
Sheila Polk	Yavapai County Attorney
Jon Smith	Yuma County Attorney (telephonic)
Tom Horne	Arizona Attorney General
Jon Eliason	Mesa City Prosecutor
Baird Greene	Tucson City Prosecutor (telephonic)
Tobin Sidles	Oro Valley Town Prosecutor
Rob Walecki	Glendale City Prosecutor

PROXIES

David Byers	Arizona Supreme Court Proxy Jerry Landau
Aaron Carreon-Ainsa	Phoenix City Prosecutor Proxy Jessica Breedlove (video)

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Kimberly MacEachern	Staff Attorney
Denise Helm	Executive Assistant

VISITORS

Kathleen Mayer	Pima Deputy County Attorney
David Wick	Supreme Court Intern
Kent Cattani	Chief Counsel, Attorney General's Office
Dan Levey	Attorney General Victim Services Director
William Bessette	Community Outreach Team Leader

CONSENT AGENDA

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

CHAIR'S REPORT

Ms. Polk advised that she, Mr. Rapier, Ms. Ortiz will attend the National Association of Counties conference the first week of March 2012. Ms. Polk will report on the conference at the next Council meeting.

Ms. Polk reminded Council members of the February 24, 2012, CLE program on, "Reflections on the Holocaust and the Role of the Justice System." Speakers include Arizona Supreme Court Justice, Rebecca Berch, Dr. William Meinecke of the United States Holocaust Museum, and a special presentation by holocaust survivor Mrs. Gerda Weissmann Klein. Tickets were still available on the Supreme Court website.

EXECUTIVE DIRECTOR'S REPORT

Ms. Ortiz noted the Victims' Rights Week Celebration luncheon at the Legislature has been changed to April 23, 2012, due to a conflict with SB1070 being heard at the SCOTUS. As one of the many sponsors, APAAC has volunteered to coordinate the RSVP's and defray some of the costs.

Ms. Ortiz reminded Council members of her 2012 goal to visit each Council office, noting that she has already visited La Paz and Mohave Counties, and will visit the Mesa City Prosecutor's office next week. Ms. Ortiz offered to provide training during her visit if desired. She also requested the opportunity to meet with the support staff separately from the attorneys to develop a relationship with them and to open a dialogue with regard to the services and support that APAAC provides the non-attorneys in the office. Ms. Ortiz will contact each Council member to schedule a date for her visit or will accommodate any dates the members may request.

STAFF ATTORNEY'S REPORT

Ms. MacEachern followed up on her report from the last Council meeting regarding the Problem Solving Courts Conference on the afternoon of May 15, 2012, and all day on May 16, 2012. The organizing committee is reviewing presentation submittals. Ms. MacEachern acknowledged submittals from the City of Phoenix and Navajo County on behalf of the prosecutorial community, noting that the prosecutor perspectives are an unprecedented and important part of the program for this conference. Ms. MacEachern asked for Council members' assistance in recommending individuals to participate in the conference; namely, defendants with whom their offices have dealt who have successfully completed a diversion program, stopped their criminal-type behavior, and become members of society. Ms. MacEachern encouraged the Council members to look at the announcement for the

conference to see how they may participate and to encourage their prosecutors to get involved to help raise the prosecutorial profile within the Problem Solving Court concept.

TRAINING COMMITTEE REPORT

Mr. Sidles reported on the coming scheduled training: (1) March 1, 2012 “Objections Practice and Effective New Argument” in Mesa; (2) March 2, 2012 “Jury Selection” in Phoenix; and, (3) “Criminal Year in Review” March 16, 2012 in Tucson, March 23, 2012 in Phoenix, and March 30, 2012 in Mesa. The Training Committee continues work on Summer Conference details.

EXECUTIVE COMMITTEE REPORT

Ms. Polk reported on the February 17, 2012 Executive Committee meeting attended by committee members and one non-member, noting that such meetings are open to all. Regarding the venue for APAAC’s Summer Conference, the current La Paloma contract runs through 2014, so we are considering years 2015 through 2019. Ms. Ortiz visited a number of venues in the Tucson area and made a recommendation to the Executive Committee; however, Ms. Polk stated that it was the Executive Committee’s position to defer to Ms. Ortiz in making the final decision. Ms. Polk requested that Ms. Ortiz present her recommendation to the Council, at which time the Council members can determine if this is an item requiring a vote of the Council.

Ms. Ortiz discussed four facilities on the short list: La Paloma (the current venue), Ventana Canyon, El Conquistador and Starr Pass; all four of which are very nice, but each have pros and cons that she described.

Discussion was held with input from Council members.

Ms. Polk suggested that she and Ms. Ortiz continue to work on a mechanism for a decision-making process on the 2015 through 2019 Summer Conference venue; and, if they determine this item requires a vote, Ms. Polk will bring it back to the Council.

The next Executive Committee item was the practice started by Mr. Rapier and Ms. Ortiz last year of APAAC hosting a Council dinner meeting at Summer Conference. Ms. Polk would like to continue the tradition as it is a good opportunity for the Council to get together outside of a formal meeting session and asked Council members to email restaurant recommendations.

Next, in conjunction with Arizona’s Centennial celebration in 2012, the Executive Committee recommends APAAC undertake an official Legacy Project, authorized by the Arizona Historical Commission. Ms. Polk stated this is a great opportunity for APAAC to preserve a bit of history and suggested that APAAC could preserve both historical and current photos of the county courthouses. Another suggestion was to document 100 years of the Arizona county attorneys. Ms. Polk encouraged the Council members to send their suggestions for

the Legacy Project to Ms. MacEachern or Ms. Ortiz, who will work on some project ideas and report back to the Executive Committee.

Membership on the APAAC Council by statute includes the Dean of either Arizona State University (ASU) or the University of Arizona (UofA). However, there is no mechanism in the statute to determine which university's Dean will serve or what will be the length of term. The Council hasn't had membership by either Dean since the ASU Dean departed for Washington. Ms. Polk stated that Ms. Ortiz will be extending an invitation to the dean of UofA, in order to alternate the representation since the most recent membership was the ASU Dean.

Finally, the idea of a statewide Brady list was raised by Ms. Flores. After input from the Executive Committee, it was decided that Ms. Polk would ask her Chief Deputy, Dennis McGrane, who is also Chair of the APAAC Chief Deputies Working Group, to further explore the issue and make a recommendation to the full Council.

LEGISLATIVE POLICY COMMITTEE REPORT

Mr. Walsh referred to the 18-page Agenda attachment, which summarizes bills up for Council vote, and described the voting procedure by category: Support, Oppose, Monitor and No Position.

Mr. Walsh made a motion, seconded by Mr. Montgomery, to support all the bills in the Support category of the report, except SB1404, which will be removed upon request of Ms. Breedlove. Discussion was held. Motion carried. Mr. Landau abstained.

Mr. Walsh made a motion, seconded by Mr. Montgomery, to support SB1404. Discussion was held wherein Ms. Breedlove expressed her reservations about the practical impact of the bill. Walsh noted that the bill came from APAAC, as vetted by the LPC, and should not be withdrawn given its posture in the legislative process. Motion carried. Mr. Landau abstained.

Mr. Walsh made a motion, seconded by Mr. Montgomery, to oppose all the bills in the Oppose category of the report, except HB2729 and HB1304 relating to firearms, as requested by Mr. Landau, which will be removed. Discussion was held. Motion carried. Mr. Landau abstained.

Mr. Walsh made a motion, seconded by Mr. Sidles, to oppose HB2729. Discussion was held. Motion carried.

Mr. Walsh made a motion, seconded by Mr. Sidles, to oppose SB1304. Discussion was held. Motion carried. Mr. Landau abstained.

Mr. Walsh made a motion, seconded by Mr. Montgomery, to monitor all the bills in the Monitor category of the report, except HB2780 regarding animal cruelty, which will be removed at the request of Ms. Mayer. Discussion was held. Motion carried.

Mr. Walsh made a motion, seconded by Mr. Montgomery, to continue to monitor HB2780. Discussion was held. A substitute motion was made by Ms. Mayer, and seconded by Mr. Jon Smith, to change the position to Oppose HB2780. Motion carried. Mr. Landau abstained.

Mr. Walsh made a motion, seconded by Mr. Sidles, to continue to take No Position on the bills in that category. Motion carried.

NDAА REPORT

Mr. Walsh stated APAAC was well represented at the Capital Conference in Washington D.C. in early February, 2012. Those attending with Mr. Walsh were Mr. Carlyon, Ms. LaWall and Mr. Rheinheimer; also present were Ms. Cramer from Ms. LaWall's office and Navajo County Sheriff KC Clark, who is the head of the Arizona County Attorney and Sheriff's Association (ACASA) and President of the Arizona Narcotics Officers Association. They met with all the members of the Arizona delegation, including Representative Franks. Mr. Walsh stated their principle message was to seek continued funding for the Byrne Justice Assistance grants; and they also discussed the John R. Justice grants, which have received the most support from the Arizona Senators. Mr. Walsh indicated that they also spoke about the re-authorization of the Violence Against Women Act, which is not a real controversial thing, as it received full appropriation; but its authorization expired at the end of the last federal fiscal year.

Mr. Walsh observed that the NDAА board meeting was held at the same time as the Capital Conference, and it was very well attended as a result. The board members hear legislative reports at these meetings, along with other board business on which subject Mr. Walsh indicated he would send a written report. The NDAА continues to undergo an audit through the Department of Justice as a result of some poor bookkeeping by past administrations; and, while NDAА's cash flow is somewhat controlled during the audit, it is able to continue offering training programs – some of them here in Arizona. The idea is to begin some form of on-site, one-place training, similar to the National Advocacy Academy in South Carolina, that would also address education of public defenders, for example, at the University of Utah Law School. Mr. Walsh reminded the Council that all members are invited to attend the 2012 NDAА Summer Conference in Mystic, Connecticut. Next year, the 2013 NDAА Summer Conference will be in San Diego, California; which is also where the National Association of Prosecutor Coordinator (NAPC) will hold its Summer Conference.

CALL TO THE PUBLIC

Ms. Polk recognized two guest speakers from the Attorney General's Office, Mr. Dan Levey, Victim Services Director, and Mr. William Bessette, Community Outreach Team Leader, who spoke about a grant from the Department of Justice that the Attorney General's office received under the leadership of Mr. Horne (the only Attorney General's Office to receive the grant). Mr. Levey stated that the primary focus of the grant is to build a coalition throughout Arizona to raise community awareness of what to do if they are a victim of identity theft. The secondary focus is to help develop some best practices for law enforcement to utilize. While their first meeting has taken place, Mr. Levey explained that this is a working project, and

they are looking for more coalition members. Their coalition has a diverse membership, which includes federal and state partners, as well as APAAC, represented by Ms. Ortiz. He encouraged any of the county attorneys or their designees to join. The coalition has formed subcommittees, such as the Education and Public Awareness subcommittee to develop community outreach materials, and the Law Enforcement subcommittee to develop the best practices. Three to four times a year the coalition will meet to discuss and develop these outreach materials and best practices. Some of the coalition partners include the Secret Service, the United States Postal Service, the Internal Revenue Service, the United States Attorney's Office, and numerous state partners. Mr. Levey emphasized the many nuances of identity theft, including the growing number of cases involving deployed military – of which, Arizona has the most deployed soldiers per capita in the country; as well as other areas including children in foster care and the growing number of medical identity theft.

Mr. Bessette added that the grant is for one year of funding, during which time the coalition is looking to recruit new members in an effort to grow and develop a larger network that can bolster new initiatives and programs to combat against identify theft and provide services to victims.

Ms. Ortiz added that she appreciated the invitation to be part of the coalition on behalf of APAAC and will keep the Council updated on the task force. Further, Ms. Ortiz will post task force materials and related links, etc. on the APAAC website, as another avenue to disseminate the information.

Mr. Montgomery offered to provide the coalition some of the protocols being used by the Maricopa County Attorney's Fraud and Identity Theft Enforcement Unit, headed by Marian McKessy, to share some of their lessons learned. Mr. Montgomery confirmed an inquiry by Council member Walsh that Richard Platt, Pinal County Chief Criminal Deputy, is playing a dual role both representing his office, as well as being designated a representative for the State Bar of Arizona Board of Governors.

Ms. Polk thanked Mr. Levey and Mr. Bessette for their presentation.

Ms. Polk called the Council's attention to the handout provided them on behalf of Kathleen McLaughlin, Executive Director for the Arizona Child and Family Advocacy Network. The material pertains to a public awareness campaign by the National Children's Alliance.

Ms. Polk recognized guest Kent Cattani, Chief Counsel with the Attorney General's Office. Mr. Cattani shared with the Council that the House-Senate budget this legislative session includes a provision to de-fund the statewide Capital Post-Conviction Relief Office. Over the last several years, this statewide office has not accomplished the goal or objective it set out to achieve. He is working with others to come up with some proposals for the statewide office. One suggestion is to transfer the costs to the county; currently, the counties reimburse half of the costs.

Mr. Montgomery added that he has reached out to the governor's office to determine the Governor's position on the statewide office issue. He emphasized that the House-Senate budget is not in line with the governor's budget, and is predominantly coming from the

Senate. The two major problems with the statewide office are (1) it was underfunded to start with; and (2) the way cases were handled by the statewide office caused an issue.

Following additional discussion, Ms. MacEachern noted that this agency was re-authorized last year, and that there is a video of the hearing available if anyone is interested in seeing the discussion that took place in re-authorizing it and what the problems were with it.

Ms. Polk suggested that if Mr. Cattani would like to have APAAC post items on the development of this issue, he may send that to Ms. Ortiz and it will be distributed to the members as "information only."

NEXT COUNCIL MEETING

The next Council meeting will be held Thursday, March 29, 2012, at 9:00 a.m. at the APAAC Office.

ADJOURNMENT

Mr. Sidles made a motion, seconded by Mr. Walsh, to adjourn the meeting at 11:45 a.m. Motion carried.