

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MEETING MINUTES

June 29, 2012

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chair, Sheila Polk, on Friday, June 29, 2012, at 10:00 a.m., at the Navajo County Attorney's Office which is located at 550 North 9th Place, in Show Low, Arizona.

COUNCIL MEMBERS PRESENT

Kenneth Angle	Graham County Attorney
Brad Carlyon	Navajo County Attorney
Aaron Carreon-Ainsa	Phoenix City Prosecutor
Jon Eliason	Mesa City Prosecutor
Barbara LaWall	Pima County Attorney
Bill Montgomery	Maricopa County Attorney
Sheila Polk	Yavapai County Attorney
Derek Rapier	Greenlee County Attorney
Ed Rheinheimer	Cochise County Attorney
Sam Vederman	La Paz County Attorney
Rob Walecki	Glendale City Prosecutor
James Walsh	Pinal County Attorney

OTHERS PRESENT WITH PROXY

David Byers	Arizona Supreme Court Proxy Jerry Landau
Daisy Flores	Gila County Attorney Proxy Patti Wortman
Tom Horne	Arizona Attorney General Proxy Andrew Pacheco
David Rozema	Coconino County Attorney Proxy Michael Lessler
Tobin Sidles	Oro Valley Town Prosecutor Proxy Brad Carlyon
George Silva	Santa Cruz County Attorney Proxy Liliana Ortega
Jon Smith	Yuma County Attorney Proxy Roger Nelson

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Kimberly MacEachern	Staff Attorney
Diana Cooney	Legal Secretary II

CONSENT AGENDA

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

CHAIR'S REPORT

Public Integrity Task Force

Ms. Sheila Polk reported on APAAC's subcommittee which met on June 20, 2012, to examine the viability of the Public Integrity Task Force and make recommendations to the Council. Council members assigned to the subcommittee and present at the meeting were Ms. Polk, Mr. Sidles, Mr. Jon Smith, Mr. Walsh, Mr. Pacheco (for Mr. Horne) and Mr. Carreon-Ainsa. Also present were Ms. Vicki Hill, City of Phoenix Chief Assistant City Prosecutor, and Mr. Gary Verburg, Phoenix City Attorney. The subcommittee reviewed the resolution guidelines language and determined that the objective for the task force is to address "breaches of public trust." While the subcommittee found that term difficult to define, it concluded it would be important to keep this mechanism in place to address cases of conflict that cannot be handled by the current system.

Mr. Verburg shared his concerns about the process of asking one office to accept conflicts from another. The task force suggested Mr. Verburg put together a Memorandum of Understanding. APAAC will provide assistance to Mr. Verburg to circulate the Memorandum among other prosecuting offices statewide.

Further discussion ensued with regard to the cost of handling the conflict case. Ms. Polk stated that these concerns are not controlled by APAAC and both offices involved in the case would handle the issue of who pays for ordinary costs, as well as any extraordinary expenses.

Ms. Polk clarified that it was the subcommittee's recommendation that APAAC keep the task force as a resource to provide courtesy assistance for conflict cases. Further, no changes to the task force resolution guidelines were recommended by the subcommittee at this time.

Overview of Council Events with 2012 Summer Conference

Ms. Polk announced the next Council meeting is scheduled for Tuesday, July 31, 2012, at 2:00 p.m. in conjunction with APAAC's Summer Conference at the Westin La Paloma in Tucson. Following that meeting, a dinner will be held at 6:00 p.m. for Council members and their spouses at the Pinnacle Peak Restaurant in Tucson. Dress is casual or western attire. An invitation will be sent to the Council members with directions and other related details. On Wednesday, August 1, 2012, a tour of the DEA facility in Tucson is scheduled for Council members and their chief deputies. Transportation will be provided by charter bus, which will depart La Paloma at 9:00 a.m. and return at 1:00 p.m. A sack lunch will be provided on the bus during the return trip. Personal information will be requested from all attendees and sent to DEA for security clearance prior to the tour.

Ms. LaWall added that the DEA tour consists of a briefing by border patrol and DEA on the drug and narcotic trafficking situation. Her staff person, Isabel Burruel-Smutzer, will ride along to assist with the field trip.

EXECUTIVE COMMITTEE REPORT

Ms. Polk stated that the Executive Committee met on June 25, 2012, to discuss the APAAC budget and review staff salaries, as recommended by Ms. Ortiz. The Executive Committee has approved the proposed 2.5% increase for the Executive Director, Staff Attorney, and Legal Secretary, in addition to an increase of \$643.00 for the Executive Assistant, which is part of the overall budget that the Council will vote on later in this agenda.

EXECUTIVE DIRECTOR'S REPORT

Michael C. Cudahy Criminal Justice Award

Ms. Ortiz acknowledged Ms. Polk as recipient of the Michael C. Cudahy Criminal Justice Award given by the State Bar Board of Governors to recognize "that criminal law prosecutor who during his or her career has worked tirelessly to advance the principles of criminal justice by representing the public's interest with integrity, fairness, tenacity, creativity, brilliance and, above all, professionalism." This is the first time the award has been given to a prosecutor from the northern part of the state. Ms. Ortiz further noted that Ms. LaWall is a previous recipient of the Cudahy award.

2012-2013 APAAC Budget

Ms. Ortiz reviewed the proposed budget, highlighting the significant changes in several line items: a decrease in "professional services" from \$40,000 to \$10,000; a decrease in "litigation enhancement and prosecution support" from \$300,000 to \$85,000 and, a decrease in "non-APAAC seminar expenses" from \$300,000 to \$100,000.

Mr. Walsh asked that consideration be given when preparing next year's budget to cover expenses for the 2013 NDAA summer conference in San Diego, California. Due to the closer proximity and lower transportation expense for Arizona prosecutors, this provides a good opportunity to encourage better attendance statewide.

Ms. LaWall stated her concern that the "litigation enhancement and prosecution support" budget may not be sufficient in the event a smaller county is hit with an extraordinary case requiring outside funding for expert witness fee and travel costs, etc.

Mr. Rapier submitted that it should be the primary responsibility of the county dealing with an extraordinary case to consider the costs associated with pursuing it. He further suggested that it may set a dangerous precedent to have those counties consider APAAC's funds as the primary source for those unusual cases. Mr. Rapier also pointed out that in order to increase this budget item by such a large amount, those funds would need to come from another line item.

Mr. Landau mentioned there may be supplementary revenue as the result of some additional assessments added on to the surcharge distribution by the legislature to APAAC.

Ms. Ortiz stated that this budget reflects conservative numbers in the revenue projections.

Mr. Rapier made a motion, seconded by Mr. Montgomery, to accept the budget as proposed with the salary increases for the fiscal year 2012-2013. Motion carried.

Ms. Ortiz stated that each Council member present was provided copies of the recent annual financial audit reports for APAAC. Further, there were no issues that arose out of the audit.

APAAC Certificate of Trademark

Ms. MacEachern informed the Council that APAAC has secured a Certificate of Trademark from the Arizona Secretary of State to protect and control the use of APAAC's logo.

2012 SUMMER CONFERENCE ATTORNEY AWARDS

Ms. Ortiz announced the nominations for several awards to be presented at the 2012 Summer Conference and asked each representative to speak in support of their respective nominee.

- Nominees for the Appeals Award: Ken Flint from the Scottsdale City Prosecutor's Office; Lacey Gard from the Arizona Attorney General's Office; Gerald Grant from the Maricopa County Attorney's Office; and, Kent Kearney from the Phoenix City Prosecutor's Office.
- Nominees for the David R. White Award: Patricia George from the Phoenix City Prosecutor's Office; Rachel Mitchell, from the Maricopa County Attorney's Office; Julie Sottosanti from the Pima County Attorney's Office; and, Larry Wharton from the Pinal County Attorney's Office.
- Nominees for the Felony Award (Large Jurisdiction): Liz Barrick from the AZ Attorney General's Office; Lewis Brandes from the Pima County Attorney's Office; Suzanne Cohen and Patricia Stevens, co-nominees from the Maricopa County Attorney's Office.
- Nominees for the Felony Award (Small Jurisdiction): Greg Bizzozero from the Pinal County Attorney's Office; Greg Hazzard from the Pinal County Attorney's Office; Bill Hughes from the Yavapai County Attorney's Office; William Katz from the Yuma County Attorney's Office; Brian McIntyre from the Cochise County Attorney's Office; Joel Ruechel from the Navajo County Attorney's Office; and, Ken Skousen from the Mohave County Attorney's Office.
- Nominees for the Lifetime Achievement Award: Terry Jennings from the Maricopa County Attorney's Office; and, William Moore from the Maricopa County Attorney's Office.
- Nominees for the Misdemeanor Award: Beth Barnes, TSRP and Assistant Phoenix City Prosecutor; David Kell from the Yavapai County Attorney's Office; Kyle Mann from the Gila County Attorney's Office/Payson Town Prosecutor's Office; Melissa Moore from the Mohave County Attorney's Office; and, Michelle Saavedra from the Tucson City Prosecutor's Office.

- Nominees for the Rising Star Award: Vanessa Cartwright from the Santa Cruz County Attorney's Office; Jeremy Ford from the Graham County Attorney's Office; and, Kendrick Wilson from the Pima County Attorney's Office.

Ms. Ortiz asked for a hand vote of the Council members to determine the winner of each category. Winners will be announced at the APAAC Summer Training Conference awards luncheon.

MEDIA CONSULTANT RESOURCE FOR PROSECUTION OFFICES

Bradley Carlyon described his experience with a recent high profile case involving international attention on the internet: Larsgard is a Norwegian and was recently tried, convicted and sentenced to 7.5 years in prison. A media firestorm ensued fueled by outrage from his home country and based upon erroneous information or interpretation of the case; this led to a major story in the newspaper and websites seeking donations for the defendant. Mr. Carlyon sought a referral from Kim MacEachern and acquired short-term funding to immediately hire a media consultant who was very effective in training him for media appearances, television news interviews, and establishing effective responses to the web traffic on the case; a website (registered in such a way so as to pop up first on a Google search), op-ed piece, Twitter, Facebook and other social media were utilized to provide the "other side of the story" and correct the public record. Mr. Carlyon observed that consultation with professionals in this area is critical to respond to inflammatory and incorrect commentary that goes public in an instant. One roadblock to accessing such services in a timely manner is the relevant procurement codes. Mr. Carlyon suggested that the Council explore retaining such a professional through a process handled by APAAC, thus making the expertise available on very short notice. The county attorney could then reimburse APAAC.

TRAINING COMMITTEE REPORT

Ms. Ortiz presented the Training Committee Report on behalf of Mr. Sidles and referred Council Members to the attachment provided with their Agenda, as follows: Ethics Seminar held June 8, 2012, in Phoenix had 65 attendees; Forfeiture Seminar on June 15, 2012, in Phoenix had 69 attendees; and, Felony Intermediate Advocacy Course from June 18-22, 2012, in Prescott, had 29 attendees. The report also announces upcoming APAAC seminars, including: Summer Training Conference in Tucson from August 1-3, 2012; and the Misdemeanor Intermediate Advocacy Course in Phoenix from August 27-31, 2012.

LEGISLATIVE POLICY COMMITTEE REPORT

Mr. Walsh indicated that the Legislative Policy Committee (LPC) debrief after the end of the legislative session included review of the ill-fated synthetic drug bill. In planning for which direction to take the legislation in the coming session (which will include a substantial number of new members of the legislature), Ms. MacEachern presented an overview of the problem, including the preference for collectively referring to this line of illicit drugs as "novelty powders". Her presentation also reviewed the history of the drugs, their manufacture, sales and effects and what makes them unique from a regulation standpoint. Federal, state and

local approaches were also reviewed. At the conclusion Mr. Walsh asked the Council for their suggestions for LPC to consider in preparation for the coming session.

Ms. Polk indicated that she will keep us apprised of various programs now being implemented in Yavapai County, as well.

As requested by Ms. LaWall, Ms. MacEachern agreed to distribute a copy of the PowerPoint presentation to Council members via email and will have it posted on the APAAC website.

NDAAC REPORT

Mr. Walsh reported that several Council members will be travelling to the 2012 NDAA Summer Conference in Mystic, Connecticut, from July 22-25, 2012. The attendees include Mr. Walsh, Ms. Ortiz and Mr. Montgomery.

Mr. Walsh said that Arizona has submitted its response to the Innocence Project report, which discusses allegedly wrongful convictions and provides those cases to the National Registry of Exonerations.

CALL TO THE PUBLIC

Mr. Carlyon reminded Council Members of the Fort Apache Historic District tour following the Council meeting. The tour group should plan on departing Show Low around 1:00 o'clock p.m. and will travel together in personal vehicles.

Ms. LaWall announced that the State Bar of Arizona's Board of Governors has named Amelia Cramer, Chief Deputy Pima County Attorney, as President.

Mr. Landau stated that the Courts are starting to send out their judicial review surveys and all are encouraged to fill them out and return them. He also asked that Council members help get the word out to others to do the same.

Mr. Montgomery reports that Maricopa County is being sued by a company for failing to act on its license to dispense medical marijuana. Mr. Montgomery advises that his office will not get involved in issuing permits, because it could violate federal law.

NEXT COUNCIL MEETING

Ms. Polk announced that the next Council meeting will be held in conjunction with APAAC's Summer Conference at the Westin La Paloma in Tucson, AZ, on Tuesday, July 31, 2012, at 2:00 p.m.

ADJOURNMENT

The meeting was adjourned at 1:00 p.m.