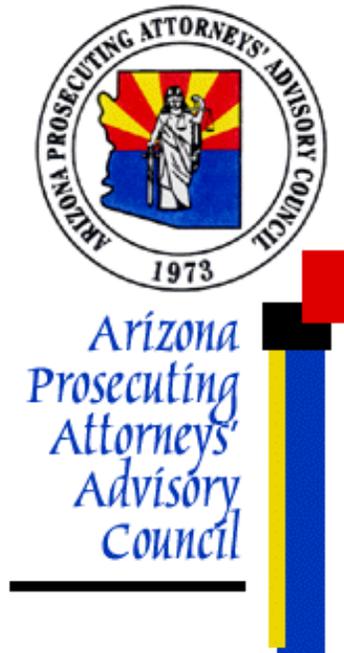


# Arizona Prosecuting Attorneys' Advisory Council



## JUST THE FACTS, MA'AM

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# ARIZONA PROSECUTING ATTORNEYS’ ADVISORY COUNCIL

## JUST THE FACTS, MA’AM

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**HISTORY:** In the early 1970’s a trend was sweeping the nation in the field of criminal prosecution that saw the founding of statewide organizations of prosecutors. On November 26, 1973, the then 14 County Attorney’s formed an association facilitated by a grant from the Arizona Justice Planning Agency. The Association included the Attorney General and was

operated by an Executive Staff under the direction of a Board of Directors made up of the AG, the CA's and 7 Deputy County Attorneys. One document describing the original Arizona County Attorney's Association stressed that the principal activity of the group was to act as a service organization, assisting the state's prosecutors and law enforcement.

The primary function was offering a coordinated training schedule for the prosecutor community, saving repetition of that function 14 times over in each county and ensuring consistent and timely dissemination of prosecutorial education and experience statewide. This collaboration obviously had the exponential benefits of pooling talent and resources. In addition, it was an efficient mechanism for meeting the continuing legal education necessary for aspiring to the highest standards.

A visible product of the Association came in the form of its publications; Ex Rel, a biweekly publication summarizing each reported Arizona appeals case addressing a criminal issue; Jus Dicere, a publication summarizing criminal US Supreme Court cases in addition to state cases was printed when the accumulation of cases warranted, which was often weekly; and the monthly Arizona Prosecutor which covered topics of more general interest to prosecuting authorities, such as legislative summaries, rule amendments and developments occurring in other states.

Four years later the legislature essentially adopted the mission statement of the organization when it enacted legislation establishing the Arizona Prosecuting Attorneys' Advisory Council and expanding the membership to include all County Attorney's, the City Prosecutors from cities with greater than 250,000 population and one prosecutor representing all other municipalities as well as one of the deans of the state's two law schools. As a subsection of state government the Council meetings are subject to the Open Meeting Law, ARS §38-431 et seq.

**AUTHORIZATION:** Added by Chapter 131 of the Laws of 1977<sup>1</sup>, ARS §41-1830, et seq. became effective May 31, 1977. The mission remains essentially unchanged from the original association and the role of the organization remains as vital today as when it was founded those 37 years ago:

1. Establish rules and regulations for the council.
2. Prepare manuals of procedure.
3. Assist [with] trial briefs, forms and instructions.
4. Research and study areas of interest and value to all prosecuting attorneys staffs.
5. Training programs for prosecuting attorneys and other criminal justice personnel.

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<sup>1</sup> Although not a statutory agency until 1977, the seal reflects the founding year of the original association, 1973.

6. Liaison with study commissions/agencies of all branches of local, state and federal government as beneficial to law enforcement and the fair administration of justice.
7. Establish training standards for prosecutors and promulgating rules and procedures to promote them.
8. File an annual report of financial receipts and expenditures with the governor, speaker of the house and president of the senate.

Today APAAC is a vital resource for real time delivery of case law developments, commissioning research in areas of specific interest, such as the 2010 Dr. Daryl Fischer’s analysis of the statistical make-up of Arizona’s prison population, and as a resource in any number of issues and programs in and around the prosecuting community. In addition to providing professional development training, APAAC assists with the analysis and drafting of statutory, regulatory and legal rule adoptions and amendments, providing the perspective of the prosecutorial community as a whole. APAAC participates on committees such as the review panel that distributes federal funds to defray the costs of student loans for persons dedicating their careers to prosecutorial public service, the O’Connor House and the Arizona Forensic Science Academy Board. The agency is a key resource for gathering information from prosecutorial counterparts nationwide and coordinating joint training efforts and the exchange of information and resources across the country.

**STRUCTURE:** As of 2010 there are more than 800 prosecutors in Arizona who are served by APAAC<sup>2</sup>:

TOTAL NUMBER OF PROSECUTORS IN ARIZONA 2010

OFFICE	# OF PROSECUTORS	OFFICE	# OF PROSECUTORS
Apache County	3	City of Apache Junction	1
Cochise County	18	City of Casa Grande	1
Coconino county	15	City of Chandler	2
Gila County	13	City of Glendale	7
Graham County	6	Lake Havasu City	2
Greenlee County	3	City of Mesa	16
La Paz County	7	Town of Oro Valley	2
Maricopa County	334	City of Page	2
Mohave County	18	City of Paradise Valley	1
Navajo County	19	City of Peoria	3
Pima County	75	City of Phoenix	60
Pinal County	28	City of Prescott	1
Santa Cruz County	8	City of Scottsdale	12
Yavapai County	23	City of Sedona	1
Yuma County	25	City of Tucson	37
Attorney General's Office	62	<b>TOTAL</b>	798

<sup>2</sup> Obviously there are a number of smaller cities and towns not listed here. For the most part those jurisdictions contract with attorneys to serve as prosecutors on a less than full time basis. In some cases a contract prosecutor may access APAAC training opportunities.

The Council is organized by the election of officers: Chairman, Vice Chairman and several Standing Committees:

- **Executive Committee:** Chairman, Vice Chairman, all committee chairs and 1-2 others from the membership to ensure comprehensive representation. The mission: provide management direction to the Executive Director and oversee budget, organizational structure and conduct performance evaluation of the Executive Director.
- **Legislative Policy Committee (LPC):** Establishes a consensus on policy issues for the purpose of proposing pro-active and defensive legislative and/or rule-making action and may establish subcommittees and working groups as needed; monitors all relevant legislative and/or rule making activity and supervises the staff representing the Council in those processes by providing real-time feedback.
- **Personnel Committee:** Establishes organizational direction for the staff as regards personnel and other management policies and rules, such as job descriptions, salaries, recruitment, harassment policies, ADA, employee benefits, etc. May appoint subcommittees and working groups as needed.
- **Training Committee:** Through Executive Director and staff, oversees identification, development and maintenance of the comprehensive statewide prosecutor training program; explores innovation and improvement of training opportunities. May appoint subcommittees and working groups as needed.

**AFFILIATIONS:** Today APAAC works very closely with the nationally based organizations; National District Attorneys Association (NDAA) and the National College of District Attorneys (NCDA). Like APAAC, these organizations' primary functions are related to the training of prosecutors.

NDAA's mission, which is similar to that of APAAC only on a national scale, serves as a nationwide, interdisciplinary resource center for training, research, technical assistance, and publications reflecting the highest standards and cutting-edge practices of the prosecutorial profession. Through membership dues, fees and federal funds/grants the NDAA's educational arm, the NCDA offers prosecutorial courses out of the National Advocacy Center in South Carolina, as well as at locations across the nation. <http://www.ndaa.org>. Some examples of topical areas for which technical assistance is offered include: capital litigation, community prosecution, child /elder abuse, DNA, guns/gang violence, expert witness, traffic and violence against women.

APAAC leverages the resources offered by NDAA to expand training options and access resources not based in Arizona, providing a richer and deeper educational experience for our state programs. In addition to the technical assistance, seminars and publications offered by NDAA, the agency acts as a liaison with the federal government on issues impacting state and local prosecutors.

The National Association of Prosecutor Coordinators (NAPC), is the professional organization made up of those who perform the same function as APAAC in other states. As with most professional organizations, the NAPC mission is to provide a forum for the exchange of ideas and information and the development of programs and services for the mutual benefit of prosecutor coordinators and prosecutors. The group also provides a link to relevant case and legal news blogs and wires and sponsors training programs for prosecutors as well as the coordinators in specific topical areas such as domestic violence and traffic. <http://www.napc.org>.

**FUNDING:** Today the funding source is no longer grant driven nor is it within the state general fund; the revenue stream dedicated to APAAC comes from that part of the community most likely to encounter the prosecutorial function. The funds consist of a portion of the surcharges added to criminal fines and civil infractions related to driving and to certain game and fish violations.

- ARS §12-116.01 authorizes a surcharge (61/54% for 2011 and 60/54% for 2012<sup>3</sup>) on all fines, penalties and forfeitures for criminal offenses and motor vehicle statutes and all civil penalties imposed on traffic violations including any local ordinance relating to the stopping, standing or operation of a vehicle as well as penalties violations of the game and fish statutes. These funds are transferred as collected to the State Treasurer, via the relevant county or city treasurer, reaching the state by mid-month following collection.
- ARS §41-2401 establishes the Criminal Justice Enhancement Fund which receives the state portion of the surcharge funds and in turn distributes the funds to various programs; APAAC receives 3.03% of the Fund on a monthly basis.

While the revenue stream varies with the collections of fines and penalties by the courts, the agency averages about \$1.5 million annually.

The agency is also authorized by law to receive contributions, grants, gifts, donations, service or other financial assistance. APAAC has been very successful at identifying training opportunities funded by grants in conjunction with national training programs, particularly those offered through the NDAA/NCDA and coordinates those offerings to ensure participation by prosecutors from the entire state, including, where available and applicable, tribe-based prosecutors and Arizona based federal level prosecutors.

**BUDGETED PROGRAMS:** The majority of the funds are directly invested in the substantive training and support programs attended by the state's 819 county and municipal prosecutors. The second largest outlay is invested directly in prosecutor oriented research.

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<sup>3</sup> ARS §41-2421 provides that the 7% surcharge imposed under ARS §12-116.01.B. shall be distributed to particular purposes. Therefore the pool of funds from which the APAAC distribution is made is the smaller number.

## TRAINING

In FY2010-11 \$375,000 is budgeted for APAAC seminar expenses which include the triannual Basic Advocacy Course, the Annual Summer Conference and annual courses in: Professionalism for Prosecutors (providing an alternative to the Arizona State Bar sponsored and mandated Professionalism Course); Capital Litigation; Intermediate Advocacy; Criminal Year (3 locations statewide); Ethics; Constitutional Law; and Legal Assistant and Support Staff seminars. In addition there are a number of specialty seminars on topics of current import in a given year, such as forensics and technology oriented offerings. In addition, APAAC staff can travel to individual offices and provide tailored training. Where possible, technology is utilized to provide the content in a web-based delivery system, saving on the time and cost of travel. Non-APAAC training expenses are budgeted at \$300,000. These funds are targeted at providing the prosecuting community access to training programs offered by nationally based organizations and includes travel expenses.

APAAC defrays the cost to the prosecutor and covers the travel costs of attendees from outside the area where the course is offered based on the standards for reimbursement of Arizona state government employees.

APAAC seminars are accessed, on average, by almost 2000<sup>4</sup> attendees<sup>5</sup> per year and constitute an average of 90.35<sup>6</sup> continuing legal education hours offered per year.

	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006
Attendees	1743	1478	2143	2218	2290
CLE Hours	89	83	99.5	101.5	78.75

The benefits of centralized administration and sponsorship of prosecutorial training opportunities are obvious but worth articulating: by concentrating the effort, a relatively small, targeted staff can devote quality time to creating substantive and substantial programs, recognize trends and evaluations and amending program content to address the changing landscape and improve the product. If this work were disbursed the quality would immediately suffer and the impact on the state's prosecutor resources would be exponential as the exercise would be repeated in each of the 15 counties and 65 municipalities with courts by persons whose primary focus would be prosecuting cases. Clearly, valuable economies of scale would be lost, the product quality would suffer from a lack of focus, important opportunities would be overlooked or lost and most importantly the quality of prosecutor performance would suffer, having a direct impact on public safety. Finally, the ability to interact nationally and leverage non-Arizona training resources would be hampered if not lost altogether in many jurisdictions, severely limited the ability to consistently maintain high prosecutorial standards.

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<sup>4</sup> Averaged over the 5 most recent years

<sup>5</sup> Where the topic is appropriate (Constitutional Law/Criminal Law, Criminal Year in Review), seminars may be attended by non-prosecutors, such as Arizona State Bar members fulfilling CLE requirements particularly public defenders.

<sup>6</sup> See fn. 3.

**STATE BASED TRAINING:** The following is a sample of the content of the APAAC training that is offered on an annual basis. It should be considered with the thought in mind that this list is not comprehensive and does not address the specialty courses that are often provided on a statewide and/or targeted basis.<sup>7</sup>

- ***Basic Advocacy/Introduction to Prosecution:*** Offered three times per year in Phoenix. The course is designed for new and relatively inexperienced full-time prosecutors. Standard topics covered include such areas as victim's rights, opening and closing argument, motion practice, conducting direct and cross examinations, issues related to domestic violence and DUI cases. The course culminates with hands-on practice through interactive videotaped practice of courtroom techniques and critiques.
- ***Felony Intermediate Advocacy:*** Offered annually in Prescott. This seminar is for the more seasoned but not well-steeped felony prosecutor. This annual offering addresses such topics as developing a theme based prosecution at the pretrial stage, voir dire and opening statement techniques, crime scene recreation, using particularly challenging forms of evidence, such as cell phone records, working with experts in areas such as DNA, firearms, fingerprint, toxicology and document authentication and refining courtroom techniques for opening/closing statements and direct/cross examinations.
- ***Misdemeanor Intermediate Advocacy:*** In the spring of 2011 we will see the launch of an Annual Intermediate Misdemeanor Advocacy Conference in Flagstaff geared toward the more seasoned DUI and DV prosecutor looking to hone their skills. Topics will address the more complex areas of these common misdemeanors such as DUI science, motions, recanting victims, child witnesses, working with police testimony, 911 tapes and photos and emerging issues as well as practice with opening/closing statements and direct/cross examination.
- ***Annual Summer Conference:*** Prosecutors are hosted by APAAC over a 3 day period for training and meetings designed to develop and hone skills, exchange information about developments in criminal law and forensics and applicable scientific techniques and the law managing their use in cases, exchange experiences with fellow prosecutors, learn about programs and cases in other jurisdictions and other settings. A substantial portion of the program addresses ethical issues. Additionally, the format allows for some creativity and a range of topics and has brought such fare as a presentation on the role of prosecutors in the Holocaust, wiretap, "sexting", extradition, restitution, confession, hearsay, diversion, statistics, juvenile, Child witnesses, DNA, competency and the historical evolution of the prosecutor's role in society, to name just a few. It also offers an opportunity to recognize the accomplishments of particular prosecutors

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<sup>7</sup> Targeted trainings may be offered on an as-needed basis. For example, APAAC personnel recently conducted a tailored program for prosecutors in Navajo County on a particular topic that events had indicated warranted some additional review in that office.

in the annual awards program that accompanies the luncheon meeting on the middle day of the event. Generally consisting of plenary and breakout sessions many of which are led by experts from other states and jurisdictions, prosecutors also meet a large portion of the continuing legal education requirements imposed by the Arizona State Bar, averaging about 3/5 of the annual CLE requirement, including ethics requirement, with minimal interruption in trial schedules.

- **Capital Litigation** is specifically for prosecutors who are handling death penalty cases, the one day course (and occasional two and ½ day session) covers such topics as the top ten mistakes, jury selection issues, forensics and scientific evidence, aggravation/mitigation, competency, the most recent reported capital case appeals and annual review of recently prosecuted cases and current issues/trends.
- **Criminal Year** is presented in Phoenix, Mesa and Tucson each year and addresses developments over the last year in such areas as constitutional law, cases from the defense perspective, criminal substantive law, criminal code/procedure, evidence, ethics, special actions and professional responsibility and a panel discussion of a point of interest such as a particular evidentiary rule.
- **Legislative Update** offers an overview of the legislative session and a discussion of the development of specific legislation of interest to prosecutors.
- **Professionalism** meets the requirements for newly admitted Arizona State Bar attorneys who are required to take the course sometime in their first 12 months of admission. The focus is on the attorney's relations with clients and other persons they may encounter in the course of their legal work as well as diversity and bias awareness.
- **Specialty topic** seminars are offered throughout the state in addition to the annual curriculum. Particular programs can be crafted to elucidate certain issues in any given region. A sampling of special seminars produced by APAAC, often in conjunction with other agencies such as the Arizona State Bar, over the last few years include:

**Crawford: How We Got Here & Where We're Going;**

**Prosecutorial Jeopardy;**

**The Who What Where and Why of Grand Jury;**

**Misdemeanor Issues** (Domestic Violence, DUI-Phlebotomy, Right to Counsel, impact of the Zaragoza case, Combating Blight);

**Summary of US Supreme Court Decisions for Trial Dogs;**

**Daubert** (Expert Opinion Admissibility, Latent Prints hearing script);

**Technology;**

**Constitutional Law and Criminal Issues** (Recent Decisions, How the 6<sup>th</sup> Amendment Guarantees You a Lawyer, Fair Trial and Chamber Pot, Origins of the 4<sup>th</sup> Amendment, New and Not So New Issues –Judicial Perspectives);

**Support Staff; Legal Assistants Seminar** (Constructive Confrontation, Celebrating the Perfectly Unbalanced Life, Myths of CSI, Reality of Crime Lab Work, Digital Evidence, Who Are We and Why Do We Do What We Do?;  
**Mentoring and Second Chairing New Attorneys;**  
**Computer Assisted Sexual Exploitation of Minors;**  
**Federal Habeas Training**

- Staff also tailors specific training and visit prosecutor offices throughout the state to discuss targeted issues for which a statewide training is not scheduled.

**NATIONALLY BASED TRAINING:** In addition to state-based training, APAAC coordinates access to nationally based training opportunities for the state’s prosecutors. APAAC identifies, advertises and sponsors tuition and travel expenses for selected prosecutors to seminars furnished by NDAA, at the NCDA and elsewhere throughout the country throughout the year. In addition APAAC is coordinating these opportunities with Arizona-based Tribal prosecutors and US Department of Justice prosecutors in the US Attorney for Arizona’s Office. By amassing the vast resources of the national organization together with other state programs, the availability of training opportunities increases exponentially. Moreover, the exposure to counterparts from other states and regions germinates a cross pollination of concepts and approaches adding an invaluable dimension to the benefits provided through the national organization.

A sampling of the training offered by NDAA reveals topics ranging from drug prosecution to prosecutor boot camp, trial advocacy, and domestic violence, prosecuting sexual assaults /violent crimes, courtroom technology, forensics, cross examination, on-line crimes against children and the like. NDAA can detect trends early and tap talent nationwide, bringing a high level of experience and competence in the topical areas.

## **LAW STUDENT FELLOWSHIP PROGRAM**

The APAAC budget also funds fellowship programs at the state’s law schools. The Fellowships provide a third year law student who is looking to pursue a career in prosecution the opportunity to spend that final year as an intern in “rotations” through the local prosecuting agencies. The Fellows work as a prosecutor is facilitated by 17A ARS Sup.Ct.Rules, Rule 38(d).

**Truman R. Young, Jr.**, was a former Air Force Academy graduate and decorated combat pilot selected to participate in a series of internships sponsored by the State Bar of Arizona. These internships were designed to encourage highly qualified and motivated law students to become career prosecutors. During his internships and subsequent career as a prosecutor,

Truman exemplified the qualities that the public expects of its advocates. On March 13, 1982, Truman R. Young, Jr. was killed in a mid-air collision while serving his country, piloting a National Guard airplane. In memory of Truman and in tribute to him, his friends and colleagues in conjunction with the Arizona Prosecuting Attorneys' Advisory Council and the ASU College of Law established the Truman R. Young, Jr. Prosecutorial Fellowship. <http://www.law.asu.edu/files/Clinics/TrumanYoungFellowship.pdf>

Fellows spend the summer in the ASU Criminal Practice Clinic followed by an academic year of work alongside prosecutors in each of the four Phoenix based prosecuting agencies: City of Phoenix Prosecutor's Office; Maricopa County Attorney's Office; Office of the Arizona Attorney General; and, US Attorney for the District of Arizona. Applicants are interviewed and selected in December for the following academic year, the student's third law school year. The student receives course credit hours, tuition waiver and a stipend. Performance is measured by the employing agencies and reported to APAAC. The Arizona Attorney General's Office administers the APAAC sponsored stipend.

**The Udall Fellowship** is named for the long tradition in the Udall Family for public service and in particular in the prosecutorial arena. For example, Morris Udall served as the Pima County Attorney and Steven G. Udall has been the Apache County Attorney and has served on the APAAC council for decades. These are merely examples of the consistent commitment of the Udall family to serving their community as so many other members have worked in various careers that took them to prosecution work over the years and across the state. The Udall Fellowship is currently being revamped to enhance its effectiveness in raising awareness among law students of potential careers in prosecution, an area that has not traditionally been a focal point of legal education. Fellows participate in a clinic, take one course per semester and rotate through prosecuting agencies in the Pima County area including the US Attorney, Attorney General, County Attorney, Tucson City Attorney and Oro Valley Town Attorney offices. The student receives course credit hours and a stipend. Performance is measured by the employing agencies and reported to APAAC. The Arizona Attorney General's Office administers the APAAC sponsored stipend.

Recent participation in the Fellowship program has netted some important additions to the prosecution community. Reportedly one recipient returned to Arizona from another state to work at the US Attorney's office and another left a highly regarded civil law firm to join the Maricopa County Attorney's Office.

The first private sector law school has opened in Arizona and fellowship opportunities may be pursued to complete the inclusion of all of the state's legal education institutions, exposing law students in all sectors to the prosecutorial career option.

## **RESEARCH and SPECIAL PROSECUTION ENHANCEMENT PROJECTS**

A critical component of successful and efficient prosecutorial programs is up to the minute information. A key function of APAAC in keeping the prosecuting community apprised of developments in criminal case law is a real-time analysis of appellate decisions. APAAC may also commission in-depth research on targeted issues relating to prosecution. And from time to time as resources are available, APAAC may fund litigation enhancement support.

Providing a comprehensive review of criminal case reporting in a timely manner frees the line prosecutor to focus on the cases at hand confident that new developments will be brought to their attention without having to continually update their own knowledge. Centralizing this effort for the state's 80 jurisdictions provides exponential savings and increases the number of cases each prosecutor can address thus enhancing the performance of each individual prosecutor by speeding the delivery of justice and public safety while adhering to the high standards that form the basis of an effective justice system. FY2010-11 sees \$300,000 devoted to this effort.

**Case summaries** are prepared by a contracted staff attorney who monitors the United States Supreme Court together with the Arizona Supreme Court and the Court of Appeals. Each time a related case is reported out of any of those courts it is digested and summarized, with header bullet points and a synthesis of the opinion, together with a link to the original case for more in depth study. Distribution of the summaries occurs through a mass email directly to the prosecutor's work computer apprising them of the availability of the full case information on the secure portion of the APAAC website. In addition, bullet points of the case summaries are reprinted in the quarterly electronic newsletter "The Arizona Prosecutor"<sup>8</sup> with links to the full summary and is posted on the APAAC website.

APAAC also tracks and disseminates to the prosecuting community information on pending legislation, amendments to Supreme Court Rules and other enactments impacting criminal procedure.

**Specific studies** may be commissioned by the Council as it identifies issues that require specific data or analysis. APAAC may commission targeted research that may not be otherwise conducted in other sectors. For example, in late 2009 the APAAC Council authorized a study of the populations currently housed in Arizona's prisons. Assumptions and conclusions regarding the makeup of the prison population referenced that were often making their way into policy

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<sup>8</sup> See below for more information on the newsletter content and publication frequency.

discussions were apparently extrapolated from nationally based studies, but a comprehensive review of the categories of Arizona's prison population in particular was not available. Thus, APAAC engaged an appropriate researcher to conduct the study and issue a report to fill in the gaps in data and information with an eye toward correcting the record and enabling sound policy making. The "Fisher Report" was published in March 2010.

### **Support Programs:**

Various forms of support are provided to the individual prosecutor's offices based upon requests made to APAAC that demonstrate the support will supplement existing resources and enhance the delivery of prosecution services to the requesting jurisdiction.

**Litigation Support** includes, but is not limited to the following:

- expert witness consultation, analysis, and testimony in unusual or complex cases
- resources for the handling of conflict cases received by an office
- equipment for presentations in the courtroom
- software that assists in courtroom presentations for judges and/or a jury

**Prosecutor Support and Research Enhancement** includes, but are not limited to the following:

- resources to enhance existing research capabilities in an office
- resources for the limited access and use of paralegal, legal assistant, or law clerk services in a complex or high-profile case
- funding for the creation, rewrite and update of chapters or sections of APAAC training manuals

**Technology Enhancement** includes, but is not limited to the following:

- additional computer hardware or software that enhance the capabilities of an office and the delivery of prosecution services to the jurisdiction
- equipment that enhances office and/or case management capabilities

The Council authorizes the Executive Director to provide funding to the requesting agency if the request meets the criteria in amounts determined by the Council each year. If the request deviates from the criteria and guidelines, or if a question arises as to the nature of the request, the amount requested, or any other issue the Executive Director will notify the Council Chairman to have the matter placed on the agenda for action at the next Council Meeting. If the request is time-critical, the Executive Director shall inform the Chairman so that a timely meeting can be scheduled. For determining whether the amount meets the maximum

allowable per the guidelines, the Executive Director shall aggregate all special prosecution project requests from the requesting office during that fiscal year.

**Dissemination** of the collected data, case information and studied material to the greater prosecutor community invigorates the effectiveness of APAAC's researcher role. As mentioned, cases are distributed through email blasts to the prosecutor's desktop which requires maintaining a database of prosecutor contacts. Email blasts are also utilized whenever an amendment to a rule is adopted. In addition the "quarterly" e-newsletter, The Arizona Prosecutor provides links to cases, advertises coming training attractions both local and nationwide, shares information and pictorial reports of prosecutor oriented events and each issue contains a profile of a particular prosecutor. Also, legislative action is summarized and reported indicating the bills that passed relating to criminal law and other areas of interest.

Another feature of the website is the hosted **forum** which provides a secure site for prosecutors to discuss issues, ask for forms, share experiences and pick other prosecutor's brains. The forum is managed by APAAC who controls access so as to limit the conversation strictly to practicing members in Arizona prosecutor offices. The topical discussions are moderated by experts in the particular areas. APAAC has set topics for issues ranging from DUI and Capital Cases to Domestic Violence and Daubert. A special forum topic can be set up to facilitate continued contact among faculty and participants following particular training events such as the Intermediate Advocacy Course. Additionally, participants can generate their own topics in the General section.

The APAAC website also serves as a central repository of prosecutor related employment opportunities. The Attorney General, County Attorneys and City Prosecutors can post recruitment notices reaching the entire prosecutor community.

APAAC is a repository for the many of the materials used in trainings. Hard copies of the materials are available for review in the APAAC library.

**GUIDANCE:** In accordance with the legislative mandate in ARS §11-362, APAAC serves a coordinating role for the county programs by creating guidance documents for program implementation. For example, APAAC produces and maintains a prosecutor's manual for general reference purposes as well as documents for implementation of particular programs. Providing such reference materials saves hours of research and development that would otherwise be repeated in the 15 counties and 80+ cities.

The agency also serves as a repository for these documents, acting as a sort of central library for Arizona prosecution reference materials and historical documents. Some examples:

**The Prosecutor's Manual:** A comprehensive source of information on all aspects of the prosecution process, the following Chapter Key provides an overview of the wide array of topics

addressed. The contents of each chapter include a general discussion of the topic by detailed subtopics together with a discussion of relevant case law from the US Supreme Court and Arizona appellate courts.

1 – Defendant’s Statements	13 – Rules of Evidence
2 – Identifications	14 – Priors for Enhancement
3 – Search and Seizure	15 – Objections
4 – Search Warrants	16 – Insanity
5 – Other Acts	17 – Rule 11 – Incompetence of Defendant
6 – Plea Agreements	18 – Rule 26 – Sentencing
7 – Trial Preparation	19 – Rule 27 – Probation Revocation
8 – Voir Dire	20 – Rule 32 – Post-conviction Relief
9 – Opening Statements	21 – Sexual Assault
10 – Direct Examination	22 – Grand Jury
11 – Cross Examination	23 – Defenses
12 – Closing Argument	

**Diversion programs** became popular alternatives to adversary based resolution of certain crimes. In 1998 the legislature authorized the use of diversion programs at the county level. The diversion programs, also known by the moniker “deferred prosecutions” have since become a common tool in the prosecutorial approach to certain crimes.

Rather than reinvent the wheel 100 times over in each jurisdiction, APAAC produced a guidance document establishing minimum standards in compliance with the legislation for use by the County Attorney’s office in setting up their own diversion programs. APAAC’s “Deferred Prosecution Guidelines”:

- Identified crimes to which the program could apply,
- Set forth the components and a procedural outline for evaluating and adopting suitable diversion programs,
- Identified the criminal law rules for and defined the legal procedures to implement the program in actual criminal cases,
- Apprised of the reporting requirements designed to provide feedback on the impact of the program to the legislature and method for obtaining state funds for implementation.

## **LEGISLATIVE POLICY COMMITTEE**

A primary function of APAAC is to serve the statewide prosecution community through monitoring proposed changes in the law, reestablishing a consensus position on issues involving legislation and rule amendments. Insofar as the Attorney General and 15 County Attorneys are elected offices and the City/Town Prosecutors ultimately serve at the pleasure of elected officials who are not likely to share the same political party, it is not only politically challenging,

but the sheer number of jurisdictions creates an impediment for the policy makers to obtain a cohesive position on a given issue.

Each legislative session the LPC prepares draft legislation for any legal issues it has identified in the ensuing year. Once adopted by the full Council, APAAC staff works with the Council to shepherd the bill through the process. Likewise, LPC reviews all proposed legislation to determine any impacts on the prosecutorial community and categorizes them according to action level: monitor, oppose, support. These positions are also reviewed by the Council and APAAC staff is tasked with interacting with the process accordingly and providing constant feedback to the members during the process. Council members may be called upon to participate in hearings and make public statements as needed.

Similarly, APAAC may access the Arizona Supreme Court rule amendment process to secure needed changes to rules as identified by the prosecutors in the courtrooms and as identified by appellate decisions. Likewise, APAAC monitors the rule agendas to determine if any amendments are proposed that may impact the prosecutorial function. Similar to the process for managing legislation, APAAC staff, under Council direction, participates and communicates with the members.

At the close of each legislative session APAAC prepares an overview of the session, summarizing the changes and their effective dates. Staff may schedule a live update in various parts of the state, providing a forum for interacting with the prosecutors to elaborate on the policy discussions that led to the changes.

## **PERSONNEL**

APAAC staff currently consists of an Executive Director, Staff Attorney, Executive Assistant and Legal Secretary. In addition, the agency contracts with an attorney whose sole function is to monitor and summarize in a “just in time” fashion developing case law as the opinions are published. These summaries are made available via the website and the newsletter.

### **Executive Director:**

Responsible for the overall operation of APAAC and serves as the general manager. Works closely with the Council members, in particular the Council Chair to align the agencies activities with the priorities of the prosecution community at large. Administrative responsibilities include ultimate control of the financial resources used to manage the agency and meet the training and attendant travel needs of Arizona’s prosecutors; appropriate and cost effective acquisition of goods and services to implement that mission; recruitment, supervision and performance review of and directly supervising the support staff, including the executive assistant, legal assistant and contract attorney; working closely with the Staff Attorney. Represents APAAC at public meetings and before relevant agencies. Identifies and represents APAAC in relevant national organizations.

Manages the training programs offered to prosecutors statewide to meet Continuing Legal Education and Arizona State Bar requirements as well as satisfying general and specific educational needs. Facilitates and administers APAAC-sponsored training events, including managing the geographical locations and logistics, topical material, recruiting teaching talent; identifies and offers national-based training opportunities to particular prosecution communities on an equitable basis, identifies grants and other supplemental funding resources to supplement and leverage existing resources. May provide direct training to specific prosecutor offices.

Liaison with numerous agencies, courts and academic institutions at the federal, state and local levels involved with the provision of public safety services to provide a cohesive conduit for communication with and for the prosecution community.

Monitors developments in criminal cases and identifies impacts to assist the Council and Prosecutor's offices in their interaction with the criminal system; coordinates and conducts legal research and disseminates timely information to the prosecutors. May prepare and file *amici* briefs as directed by the Council.

Coordinates and cross-trains areas of responsibility with the Staff Attorney.

**Staff Attorney:**

Works closely with the Executive Director to implement the priorities of the prosecution community at large. Liaison between the Council, the Legislative Policy Committee, the legislature and myriad other agencies on matters of constitutional and statutory import in the criminal law and public safety systems. Serves as a resource for the prosecutors in researching and analyzing issues arising in the criminal prosecution arena and identifying statutory implications and potential legislation. As directed by the Council, speaks for APAAC on matters before the legislature and other relevant agencies.

Develops written materials of all types, by and for the APAAC constituency including but not limited to legislation, training materials, guidance documents, articles, analytical documents, position papers, legal briefs, press releases and other documents as identified by the Council and/or in consultation with the Executive Director.

Assists the Executive Director with training responsibilities and attends conferences and seminars to identify training issues and teaching resources.

Coordinates the fellowship programs with the participating universities and prosecutorial agencies. Serves as a backup to the Executive Director for all training and administrative matters.

By Kim MacEachern  
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