

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

April 1, 2011

The quarterly meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chairman, Derek Rapier, on Friday, April 1, 2011, at 10:00 a.m., at the APAAC Office which is located at 1951 W. Camelback Rd., Ste 202, in Phoenix.

COUNCIL MEMBERS PRESENT

Derek Rapier	Greenlee County Attorney
William Montgomery	Maricopa County Attorney
Matthew Smith	Mohave County Attorney (telephonic)
Brad Carlyon	Navajo County Attorney
Barbara LaWall	Pima County Attorney (telephonic)
George Silva	Santa Cruz County Attorney (telephonic)
Baird Greene	Tucson City Prosecutor (telephonic)
Tobin Sidles	Oro Valley Town Prosecutor
Paul Berman	Dean, Arizona State University

PROXIES

Ed Rheinheimer	Cochise County Attorney Proxy Derek Rapier
James Walsh	Pinal County Attorney Proxy Paul Ahler
Sheila Polk	Yavapai County Attorney (telephonic) Proxy Dennis McGrane
Tom Horne	Arizona Attorney General Proxy Kent Cattani
David Byers	Arizona Supreme Court Proxy Jerry Landau
Aaron Carreon-Ainsa	Phoenix City Prosecutor (telephonic) Proxy Vicki Hill

STAFF PRESENT

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

VISITORS

The Honorable Ron Reinstein	Judicial Consultant, Arizona Supreme Court
The Honorable Carter Olson	Pinal County Superior Court Judge
Kathleen Mayer	Pima Deputy County Attorney
Marie Dryer	AZ Post
Julianne Hill	AZ Supreme Court Intern

Mr. Sidles made a motion, and it was seconded, to approve the minutes. Motion carried.

COMMISSION ON VICTIMS IN THE COURTS (COVIC)

The Honorable Ron Reinstein, Maricopa County Superior Court Judge, retired, and now Judicial Consultant for the Arizona Supreme Court gave a presentation as Chairman of COVIC. He described a complaint from a child molest victim, whose name appeared in public court documents and a published appellate opinion, to illustrate need for confidentiality of child victims' identities. Discussion was held on this and other similar cases. The Arizona Rules of Criminal Procedure was discussed in regards to these type of issues in criminal cases along with the provisions of Arizona Rules of the Supreme Court Rule 123(g)(1)(c)(iii)(h) which provide electronic access to the general public. Discussion was held on recommendations on how prosecutors can assist in protecting victims' identities in court documents and proceedings. One recommendation was to amend ARS §13-4434 to exclude minor victims' names from being accessible in public records compiled or reported by a law enforcement agency. Further discussion was held and it was determined that all members should determine their current practice and report back. APAAC would then prepare and recommend best practices.

CHAIRMAN'S REPORT

Mr. Rapier talked about Pension Reform and then introduced The Honorable Carter Olson, Judge Pinal County Superior Court Division 9 (former Pinal County Attorney). Mr. Olson, Chair of the Public Safety Personnel Retirement System (PSPRS) gave background on the PSPRS program and the Elected Officials Retirement Program (EORP). He also discussed the PSPRS DROP program for police and firefighters. Further insight was given and discussion was held on the proposed legislative changes to the EORP and the impact of SB1609. Council members were encouraged to talk to their Senators and Representative and colleagues about these issues, such as the definition of recently elected officials, COLA, contribution rates and survivor benefits.

Mr. Landau mentioned SB1614, which is the ASRS bill, that will also see changes in the contribution rates for the employee as it will go from a 50-50 split to 53% employee and 47% employer. Also, new employees would neither receive any benefits nor pay into the retirement system for 90 days.

Further discussion was held on SB1609.

Mr. Rapier talked about the membership of the APAAC Council, regarding municipal members, triggered by the 2010 census. The statute defines municipal membership as cities with a population of more than 250,000, but no one knows where the data count comes from. Glendale exceeds that threshold and perhaps Chandler. It was stated that the League of Cities and Towns uses the decennial census and that it may be a good source for APAAC to use to be consistent. Discussion was held and it was agreed to use this source. As a result APAAC should extend an invitation to those municipalities that qualify to participate on the Council under the new census.

EXECUTIVE DIRECTOR'S REPORT

Ms. Ortiz presented and explained the Financial Report, Financial Statement and Check Register for February, 2011. Discussion was held on the balance at the State Treasurer's Office of \$570,030.33.

SEMINAR REPORT

Ms. Ortiz gave the Seminar Report. She informed the Council that since the last meeting APAAC has held three Criminal Year Seminars: one in Phoenix, Tucson and Mesa. In addition, APAAC co-

sponsored a Professionalism Course with the Public Defender's Office. She talked about the Train the Trainer Program in Utah. April 11-15, 2011 is the Inaugural Misdemeanor Intermediate Advocacy Course in Flagstaff; on May 5, 2011 the Fourth, Fifth and Sixth Amendment Seminar will be sponsored with the Maricopa County Attorney's Office. Basic Advocacy will be coming up May and the Felony Intermediate Advocacy Course in June. The Summer Training Conference will be held in August.

Ms. Ortiz briefed the Council on the Training Committee meeting. She stated that Vincent Bugliosi, who was the prosecutor in the Charles Manson case, will be our keynote speaker at the Summer Conference and will also do a general session on tactics and techniques.

Ms. MacEachern mentioned that the State Bar puts on a Law School for Legislators. She stated that this school has a legislative component and possibly probate component but does not have a criminal component. She thought it would be a good idea to put something together on this component and present it to the State Bar on behalf of APAAC. Discussion was held.

STAFF ATTORNEY'S REPORT

Ms. MacEachern talked about the Board of Executive Clemency in regards to the importance of prosecutor input in state clemency hearings. The Board values prosecutorial input but can recognize a "form" letter pretty readily and stated those are of no assistance

Ms. MacEachern discussed potential APAAC Centennial Projects. She explained one of the projects which was the Justice Learning Center Museum at the Maricopa County Superior Court. Obtaining old pictures of elected officials was discussed. It was decided to have everybody do research to see if they have old photos of their county attorneys.

LEGISLATIVE POLICY COMMITTEE REPORT

Ms. MacEachern gave a legislative update report which included the status of the Pension and Budget bills. Discussion was held.

Ms. MacEachern informed the Council that they are still working on SB1200 which is the DUI bill, in regards to the 24 hours, which is still being negotiated. They are also still working on SB1201 which is the firearm omnibus bill to exclude prosecutor's offices. An amendment is being worked on to clarify that it does not apply to public events, private property, and only on public property.

Mr. Landau mentioned the fact that there are a number of bills that add assessments that everybody needs to be aware of for plea agreements and such. He went over several of the bills that have assessments included in the bill. Mr. Landau stated that he will have his office send the list out.

Mr. Landau talked about SB1466 which would give the justice of the peace approval over a diverted prosecution.

SUPPLEMENT TO THE 2010 PRISONERS IN ARIZONA, A PROFILE OF THE INMATE POPULATION REPORT

Mr. Rapier gave some background on the 2010 Prisoners in Arizona Report. Then Ms. Ortiz gave an overview as to how this topic arose in the context of ongoing sentencing reform discussions. It was suggested that it would be beneficial to have Dr. Fisher go back and respond to or expand his original

analysis but he is having health issues and may not be able to do this. Ms. MacEachern stated that there is a growing interest in mandatory prison reform. She thinks that we need to figure out something to help alleviate the problem so that we are in an offensive rather than a defensive position. Discussion was held and it was decided to continue to pursue this and contact Dr. Fisher to see if he can make the supplements and updates. The exact content of the supplemental material needs to include the data that responds to "criticism" of the initial report, if the criticism was substantive.

SB1621 AND DEPARTMENT OF CORRECTIONS PRISONER SHIFT TO COUNTIES

Having arisen in the context of budget negotiations, this topic was tabled with deference to the County Supervisors Association (CSA), who is going to work on the topic for the balance of the budget discussions.

ARIZONA CRIMINAL JUSTICE COMMISSION

Discussion was held on the Arizona Criminal Justice Commission serving as a data collector for capital cases. It was decided that it was too early to do anything specific right now. Mr. Montgomery will go back and talk with Mr. Blackburn, Jr. from ACJC to see if his statistical analysis center is willing to start putting something together and then let him know if we have general support from APAAC and if agencies would be willing to assist in the data collection efforts.

CALL TO THE PUBLIC

Mr. Ahler gave an updated report on the National Advocacy Center (NAC) for Mr. Walsh who was at the Spring NDAA Meeting. He stated that the NAC will be closing in May, not September, and possibly moving to the University College of Law in Utah. Discussion was held.

NEXT COUNCIL MEETING

The next Council Meeting will be held April 28, 2011 at 10:00 a.m. at the APAAC Office.

ADJOURNMENT

Mr. Sidles made a motion, seconded by Mr. Montgomery, to adjourn the meeting at 1:05 p.m.