

ATTORNEY NOTES . . .

THE NEWSLETTER OF THE ASSOCIATION OF DEPUTY



DISTRICT ATTORNEYS OF LOS ANGELES COUNTY

IN THIS ISSUE

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"Promises, Promises" 1
A Historical

CONCERNS, OBJECTIONS AND OUTRAGE 1

ANDREA BOUAS, DDA OF THE MONTH 1

CDAА TRAFFIC RESOURCES 1

SAFETY RETIREMENT UPDATES AND DEVELOPMENTS 3

SECURITY ALERT-PROTECT YOURSELVES 3

MINUTES OF THE MAY BOARD OF DIRECTOS MEETING 4

ADDA AWARDS NOMINATIONS 5

New Gang Training 6

"Promises, Promises" *A Historical Editorial*

From a historical perspective, the District Attorney's Office has never fully recovered from the recessionary years of the early 1990s. Back then, it is to be remembered, there was serious consideration given to pay cuts, lay-offs, or both.

While such drastic measures never actually came to pass, the ensuing decade witnessed a gradual decline in the overall fortunes of Deputy District Attorneys. Pay raises are sporadic and have not even kept pace with the rate of inflation. Promotions are limited. On a vast array of quality-of-life issues — including a heavier

CONCERNS, OBJECTIONS AND OUTRAGE **Few Answers & Many Questions About New Performance Work Plan and Evaluations**

At the June ADDA meeting, Director Pam Booth presented the Administration's proposed new DDA evaluations. The new system will be based on two new forms. The new Performance Evaluation and the Performance Work Plan. From what Ms. Booth was telling the Board, employees will be presented with their Performance Work Plan upon which their subsequent Performance Evaluation will be based. For many months, the ADDA has been requesting a presentation on this new evaluation to provide employee feedback. After hearing of the proposed plan, the Board of Directors overwhelmingly voted to oppose the new plan for reasons set forth in a letter to Ms. Booth. While the Administration's efforts to properly evaluate employees

is laudable, the proposed method caused great concern. The Board was especially concerned about the plan to drastically reduce the number of outstanding or exceeds expectations ratings of DDAs, and reduce those to competent or meets expectation. Your ADDA will attempt to address your concerns in future meetings with the Administration.

July 9, 2007
Pam Booth, Esq.
Director
(address info omitted)

RE: Comments Concerning New Performance Work Plan and Performance Evaluations

(Continued on page 2)

COURAGE DEFINED: ANDREA BOUAS, DDA OF THE MONTH APRIL 2007

Andrea is receiving the Deputy District Attorney of the Month award for her outstanding work in what became famous as the "Halloween case", a case involving ten minors charged with the severe beating of three young girls in Long Beach on Halloween. Following a nine-week juvenile adjudication, Andrea secured true petitions on nine of the ten minors. On Halloween night,

three girls went to visit a haunted house in Long Beach. They passed a crowd of individuals who taunted them with racial slurs. Ultimately the crowd attacked them, seriously injuring two of them. The victims were all Caucasian and the assailants were all African-American. Each victim had between ten and

(Continued on page 2)

CDAА ANNOUNCES NEW TRAFFIC SAFETY RESOURCE PROSECUTOR PROGRAM

Need advice on that *Watson* murder or tough DUI? The mission of the Traffic Safety Resource Prosecutor Program (TSRP) is to enhance the ability of prosecutors throughout California to effectively evaluate and prosecute DUI and DUI-related vehicular homicide cases. Key components of the program include:

1) Establishment of 5 regional resource centers for DUI prosecution, each staffed by a veteran prosecutor, located in the Northern California, Central Valley, Coastal, Southern/Inland Empire, and Los Angeles/Ventura geographic regions, to provide technical support (including

publications), advice, and mentoring to prosecutors handling DUI and vehicular homicide cases.

2) Development and delivery of specialized DUI and vehicular homicide training on an ongoing basis to prosecutors throughout the

(Continued on page 2)

NEW PERFORMANCE WORK PLAN AND EVALUATIONS

(Continued from page 1)

Dear Ms. Booth:

Thank you for attending the Association of Deputy District Attorney's Board of Directors meeting to discuss the new Performance Work Plan ("PWP") and Performance Evaluations ("PE"). For a number of months we requested to meet with the Administration regarding this issue, and are grateful you presented at the board meeting. However, we are disappointed that the Administration failed to provide us with a copy of the Performance Evaluation form that is associated with the draft Performance Work Plan you provided. Likewise, we are concerned that the Administration provided such a short time in which to comment on the proposed PWP and PE impact on the DDAs.

At the conclusion of your presentation, the ADDA Directors discussed the Administration's efforts to change

the historical Performance Evaluations. The ADDA Board of Directors overwhelmingly voted to strongly OPPOSE the new model of PE and PWP as presented by the Administration for the following reasons:

The Rating Criteria Imposes Unreasonable Super-Lawyer Standards and is Designed to Penalize DDAs and Not Reward Exceptional Work

The Administration stated that the District Attorney's Office hires the best and the brightest and therefore imposes on its employees very high performance standards. As a result, the rating standard is being set exceptionally high so that the majority of deputy district attorneys can only be rated "competent" rather than exceeding the standard. We object to this unfair technique to reduce the number of "outstanding" ratings which were given in the past. Imposing a "super lawyer" rating standard with little opportunity for excelling, but considerable opportunity for a substandard rating creates an unfair system to evaluate DDAs

The New Rating System will Diminish Civil

Service Protection – By setting the basic standard exceptionally high, providing little opportunity to exceed the goal, but considerable risk of failing to meet an artificially high standard, deputies are at greater jeopardy for termination. DDAs may be disciplined (up to and including

termination) for a few "needs improvement" or "unsatisfactory" ratings. The Los Angeles County District Attorney's Office has a long history of vindictive transfers, passed promotions, constructive demotions, etc. for those deputy district attorneys who may have social or political view different from the District Attorney. We object to a new rating system that provides greater opportunity to abuse deputy district attorneys, without sufficient opportunity to reward them for exceptional work.

The New Rating System will Diminish Moral

– We believe the new PE and PWP will further hurt moral among experienced prosecutors. After years of exceeding the standards set by the office, these deputy district attorneys will be downgraded. This will occur not because of poor performance, but due to an arbitrary increase in the standards. Deputy district attorneys are now being penalized for their exceptional work. It is due to their history of outstanding work that the new standards are being elevated. This is unfair and will further hurt moral.

No Objective Standard – The Administration claims the new PWP will utilize an objective standard to review DDAs' performance; however, the new rating criteria requires a subjective review by the rater. The Administration utilizes undefined qualitative review

(Continued on page 7)

BOUAS, DDA OF THE MONTH APRIL 2007

(Continued from page 1)

One victim was struck on the head with a skateboard, leaving her with severe facial injuries and necessitating a seven-hour surgery. The other two victims suffered concussions. A Good Samaritan, an African-American man, intervened by throwing his body over one of the young girls as she lay prone. Had he not done so, the case could quite possibly have involved murder charges.

From the mob that attacked the victims, the police were only able to apprehend ten minors; nine girls and one boy, ranging in age from twelve to seventeen. Three counts of Penal Code section 245 with great bodily injury allegations were filed against each minor. Hate crimes allegations were filed against the oldest eight of the ten minors.

Andrea encountered a great deal of difficulty in securing witnesses to come to court and in proving identity at the adjudication. Many who witnessed the savage assault feared for their own safety and refused to cooperate with police. Andrea was instrumental in convincing two of the key witnesses to come forward and cooperate in spite of their reservations. Despite having made identifications at the scene, no witness would point out the minors in court, forcing

Andrea to prove the case circumstantially. Further complicating matters, the judge denied her the use of DNA evidence linking the blood of a victim to clothing worn by one of the minors.

The adjudication received intensive media coverage. One of the main difficulties Andrea faced was the fact that many of the ten defense attorneys were playing to the large media contingent by objecting to every question with indignation. The defense also used the media to intentionally flame the public's passions with baseless personal accusations against Andrea. She was falsely accused of prosecutorial misconduct on a daily basis as part of a constant effort to unnerve her.

Andrea made great personal sacrifices in order to prosecute this case, including giving up her part-time status and willingly canceling a family vacation. When faced with difficulties, such as having to relocate witnesses during the proceedings due to intimidation, she kept her famously upbeat disposition, always acting ethically and honorably under the toughest of circumstances. Andrea's perseverance and persuasive presentation of the evidence proved convincing. The judge ultimately sustained the petitions against all but the youngest minor. As Head Deputy John Allen stated "This was a very difficult case. (Long Beach) juvenile was fortunate to have someone of Andrea Bouas' stature here to prosecute this matter".

The Editor wishes to thank Suzanne Freeman of the DA of the Month Committee for contributing this article.

CDAA TRAFFIC SAFETY PROGRAM

(Continued from page 1)

Starting on February 1, the TSRP program was created after the CDAA applied for grant funding from the California Office of Traffic Safety.

The director of the TSRP Program is Creg G. Datig, former Chief Deputy District Attorney of Riverside County, and a 25-year veteran prosecutor. Mr. Datig has extensive experience in the prosecution of DUI and vehicular homicide matters, including having obtained 20 murder verdicts in vehicular

homicide trials. You may contact him as follows:

Creg G. Datig, Director, TSRP Program / CDAA, 951-342-3322

cdatig2@cdaa.org

By ADDA President Steve Ipsen

NEW PERFORMANCE WORK PLAN AND EVALUATIONS

(Continued from page 2)

criteria rather than defining that criteria or using specific quantitative criteria. As such, since any rating will continue to be subjective we do not believe the proposed changes are necessary. We suggest better training for managers and supervisors.

The New Rating Criteria fails to Provide Sufficient Uniformity between Offices

— Although the Administration claims they want uniformed objective standards to rate deputy district attorneys, it fails to create uniformity between offices because it does not utilize specific

quantitative criteria, or defined qualitative criteria supplemented with examples for each rating category. The new PWP's and PE's abandon the long history of use and interpretation of the current method which has been litigated at numerous Civil Service Commission hearing and trials. This new system replaces the prior form with a new untested form and creates an unnecessary degree of uncertainty.

Imposing the new System Prior to Conclusion of Unionization Efforts is an Effort to Avoid Formal Meet and Confer Required of Represented Employees

— The Administration represented that they have not yet imposed a new PWP or PE for all the represented employees. By focusing on the unrepresented deputy district attorneys before we conclude our unionization efforts is unfair. The Administration should complete the process with represented classes first, so that mandated employee feedback from those classes would be incorporated into the PE and PWP used for deputy district attorneys. Since unionization efforts

are actively underway, the attempt to avoid formal, mandated meet and confer is anti-labor and unfair. Likewise, it is equally unfair to provide the ADDA little time to review the PWP and provide extensive and specific comments, especially since the Administration failed to provide us with the related PE form to compare to the PWP.

We strongly encourage the Administration to halt the implementation of this new rating system until our concerns can be appropriately resolved and the needs of labor and management can be addressed.

Respectfully,

BOARD OF DIRECTORS, ADDA

cc: (DA Cooley and Chief Deputy Spillane)

The introduction to this article was provided by ADDA Sr. VP Frank Tavelman.

“Promises, Promises”

A Historical Editorial

caseload with fewer prosecutors (per capita) to handle the work and the growing burden of increased courthouse security measures, to name but two — things have deteriorated noticeably.

Not all of our office's problems can be attributed to policy decisions made by the District Attorney. Yet against the backdrop of a difficult environment there are certainly things the District Attorney could affirmatively do to improve the fortunes of rank-and-file deputies.

If nothing else, these steps would improve morale and, by logical extension (as most economists will readily concede), go a long way toward improving productivity. Sadly, this administration has given short shrift to such matters. In those situations where he has had an opportunity to enact positive change, too often Steve Cooley has chosen either to do nothing or, worse yet, to exacerbate the problem.

Witness, for example, Cooley's pre-election promise to expand the popular 9/80 program beyond our downtown facilities. Immediately after taking office in 2000, he inexplicably tossed aside that good notion without further consideration. Moreover, the administration is now in the process of actively dismantling 9/80 in its entirety.

There are many other examples as well, and you need not rely on my interpretations of Cooley's promises in order to analyze them. In a personally signed campaign letter addressed to all Deputy District Attorneys seeking support for his initial election (dated 1-9-00), Cooley explicitly enumerated a long list of what his “priorities” would be as District Attorney, including the following: “Revamp the promotional exam process. All other things being equal, seniority should count for something. Nothing destroys morale more than denial of a well-earned promotion. If you do your job well, that is what should matter.” Needless to say, the burdensome promotional examination process remains unchanged, even though it is well within Cooley's power to alter.

That same letter was replete with many passages promising a closer working relationship with ADDA. Cooley criticized then-

District Attorney Gil Garcetti for being “afraid to face his troops and the public, communicating instead through a phalanx of political mouthpieces.” Similarly, Cooley denounced the incumbent for “being at war with the ADDA for years and insulting all deputies by refusing to attend ADDA meetings.” Cooley pledged to “work with ADDA in getting the best salary and benefits possible. We must remain the best paid prosecutors in the country. We will earn it by being the best prosecution office in the country.”

So where does this promised new era of cooperation and collaboration stand today?

After failing miserably in a brazen attempt to politically “hijack” ADDA by tacitly supporting an opposition slate of candidates in its internal elections, Cooley instituted a one-man boycott of ADDA meetings and activities. He has done nothing to secure pay raises or increased benefits for the deputies in our office; indeed, the glaring absence of his active support for such measures clearly signals to the Board of Supervisors that it is fine with him for the rest of us to live off whatever crumbs happen to fall our way. His administration has taken steps to oppose ADDA's efforts at formal certification or unionization. During a recent public appearance, he referred to the current ADDA President as “a piece of dirt.”

At the statewide level, Cooley's actions have evidenced a willingness to let misplaced personal ego take precedence over the broader mission of working together to combat crime. He is presently engaged in a long-standing and highly embarrassing (for him) battle with our fellow prosecutors, noisily dropping out of the California District Attorneys Association (on the eve of actually being removed from a leadership post in that organization for his aberrant behavior). Regarding the 57 other District Attorneys in the State of California, he recently said to “f--k them” during a public speech. Quite an example of professional conduct, that.

So against this backdrop, Deputy District Attorneys should view the proposed revisions to the Performance Evaluation system with caution. The first draft of the revisions was promulgated with neither input from the deputies whom they would affect, nor by any prior disclosure of its contents. Based upon the larger history of the District Attorney's failure to act in good faith with those under his command or adhere to any of his oft-recited pre-election promises, ADDA's trepidations about the new Performance Evaluations seem quite justified.

Attorney Notes thanks DDA James R. Bozajian for contributing this article.

The Newsletter of the
**Association of
Deputy
District
Attorneys
of Los Angeles County**



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by and for the
Deputy District
Attorneys
of Los Angeles
County**

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ATTORNEY NOTES . . .

SAVE THE DATE

July

July 17-ADDA Board of Directors Meeting. 5pm, Younger Conference Room, 18th floor, CSFJC

July 17th – 20th: CGIA (California Gang Investigators Association) & USDOJ (U.S. Department Of Justice) Bureau of Alcohol, Tobacco, Firearms And Explosives Present the Sixteenth Annual NATIONAL GANG VIOLENCE CONFERENCE. The Anaheim Marriott Hotel, 770 Convention Way, Anaheim, CA. 92802. Registration Fee: \$250.00 for CGIA members, \$275.00 for non-members. Group Rate is available. Payment may be made by Check, Purchase Order or charged to American Express, Visa or Master Card. A late registration fee of \$25 will be assessed after June 29, 2007.

Mail Registration Form and Payment to CGIA, PMB 331, 5942 Edinger, Suite #113, Huntington Beach, CA 92649. Email: wmcbride@socal.rr.com, aserratt@verizon.net or paulg2@charter.net

July 19 (Thursday) at 5:30 PM (after work) Latino Prosecutors Association MIXER and HAPPY HOUR, Twin Palms Restaurant, 101 West Green Street, Pasadena, CA. 91105, (626) 577-2567. Everybody in the law enforcement community is invited. There is a discounted happy hour menu which includes a variety of appetizers and 1/2 off beverages. This is strictly a

social gathering, no official business will be discussed. For questions, contact LPA President Leonard Torrealba (213) 974-6507.

August

August 10- (Friday) LPA Hollywood Bowl Night "Sgt. Peppers at 40 a Beatle's Celebration" Tickets will be available from LPA/LPF board members for \$55.00 (includes shuttle, appetizers and sangria)

August 21-ADDA Board of Directors Meeting. 5pm, Younger Conference Room, 18th floor, CSFJC

September

September 5-7. "Gangs, Drugs & Immigration," a training conference hosted by the **Citizens Protection Alliance**. Westin Bonaventure Los Angeles. Law enforcement employees can register online at www.citizensprotection.org or call 866/602-2677. Discounted rooms at the Westin Bonaventure are also available [online](#) or by calling 213/624-1000 and requesting the "Gangs, Drugs & Immigration" conference rate. For questions Contact: Rob Allin Citizens Protection Alliance 800/490-9680, ralin@snonline.com.

September 18-ADDA Board of Directors Meeting. 5pm, Younger Conference Room, 18th floor, CSFJC

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