As most of you are likely aware, the sentencing in the matter of State v. Bennett & Wheeler was completed on May 12, 2006. While this matter has been pending, I have been ethically prohibited from public comment by the rules established by the Arizona Supreme Court, except under limited circumstances. Now that the matter has been concluded, I would like to set the record straight on a number of issues. I want to thank all those people who have expressed their support for me and my Office’s handling of this case, both publicly and privately. I would also like to thank those who have expressed misgivings about the handling of the case. Your input is also important to me. Based upon some of the misinformation and rumors that are being circulated, I understand those misgivings and would like to take this opportunity to try to clear up some of the myths and set the record straight. If you continue to have a negative opinion, at least it will be based upon the truth and not misinformation and rumors.

**Myth #1: We could have charged a “sex crime”**

A prosecutor is ethically obligated to prosecute only those crimes that are specifically provided for by law. We do not prosecute someone merely because we feel like it or we don’t like what they have done; this is a good thing and essential to our form of government. In examining the facts of this case, they do not legally fit a “sex crime” as set forth in Arizona law. That does not mean that the victims didn’t suffer. That does not mean that what the defendants did was somehow okay. Rather, it means that the acts do not fit the legal definition of one of the sex crimes that this Office is in charge of enforcing. What the facts do fit are the crimes of Aggravated Assault. The defendants’ conduct was wrong and they were charged with the appropriate felonies that fit both the facts and the law.

**Myth #2: The County Attorney’s Office made a “sweetheart deal” that guaranteed a “slap on the wrist”**

The crimes of Aggravated Assault can result in a variety of specifically defined punishments, the maximum of which is imprisonment, the least of which is probation. The law
also provides that the judge can designate a class 6 felony of Aggravated Assault as a misdemeanor, even if the jury finds the defendant guilty of the crime. The offer in this case exposed Mr. Bennett to up to two years in prison and Mr. Wheeler to four years in prison. The actual sentence is a decision left to the discretion of the judge.

To call this a “sweetheart deal” implies that similar conduct by other defendants has resulted, or should result, in convictions under the sexual assault statute, registration as sex offenders and lifetime imprisonment. I have been a career prosecutor with the Arizona Attorney General’s Office and the Yavapai County Attorney’s Office and I am not aware of a single case where facts similar to these resulted in a conviction more serious than Aggravated Assault.

It is true that the plea agreement left to the judge’s discretion a range of sentences that could have resulted in misdemeanor convictions with no jail time. In fact, Arizona law provides that even if these defendants went to trial and were convicted on all counts of Aggravated Assault, the judge would still have within his discretion the sentencing option of designating the crimes as misdemeanor convictions with no jail time. In other words, the terms of the plea did not offer the two defendants more lenient sentencing options than could result from jury convictions on all counts. This plea agreement was, and is, fair and consistent with the treatment received by criminal defendants throughout this county and the state.

**Myth #3: The County Attorney believes this is a case of “mere hazing”**

No one in this Office has ever referred to the defendants’ acts as “merely hazing.” Their conduct was criminal and this Office sought punishment commensurate with that conduct. Each faced a felony record with exposure to prison time. An Aggravated Assault conviction is far more than the “slap on the wrist” that some have suggested and far more than would have resulted if this case were “mere hazing.”

**Myth #4: All of the victims were unhappy with the plea offer**

That is simply untrue. Victims were given an opportunity for input and we conveyed their input to the judge in the State’s Presentence Memorandum. In a group of eighteen victims, unanimity is unlikely. Some of the victims continue to disagree with the nature of the charges and the amount of jail time we recommended; others feel that this Office handled the case appropriately and fairly. In the end, it is the duty of this Office to determine how justice is best served, what is the appropriate offer and what is our professional opinion regarding a sentence, all subject to judicial review. In this case, I am confident that this was done.

**Myth #5: The County Attorney changed its sentencing recommendation due to outside pressures**

This is simply untrue. The only sentencing recommendation ever made in this case by this office is that set forth in the State’s Presentence Memorandum dated May 3, 2006, and posted on our website at http://www.co.yavapai.az.us/departments/Aty/Presentence.pdf.
The criminal process provides for a thirty day period between the time a defendant has pled guilty (or been found guilty by a jury) of a crime and the sentencing. During that thirty day period, this office gathers Victim Impact Statements to better understand the impact a crime has had on a victim and a victim’s family, we personally discuss with victims the possible sentence range and ask for their input on sentencing recommendations, we answer all questions and we consider their comments. Then, and only then, do we make a thoughtful, informed and well-reasoned recommendation to the court regarding an appropriate sentence. We followed this process in this case and made our sentencing recommendation to the court. In viewing the State’s Presentence Memorandum, you will see that we recommended a significant amount of jail time for each defendant, based upon their individual conduct.

**Myth #6: Senator Ken Bennett influenced this Office and/or the handling of the case**

At no point in time did Senator Ken Bennett (or anyone on his behalf) contact anyone in this Office in an attempt to influence our decisions. Furthermore, I have had no contact with Senator Bennett of any kind since the case was first presented to this Office for prosecution. Although it is not uncommon for relatives to make calls on behalf of family members in trouble, it simply did not happen in this case nor would this Office bend to such pressure.

When this Office received this case for prosecution, I personally assigned one of the most respected prosecutors in this State to the case – James Landis. Mr. Landis is a career prosecutor with more than 25 years experience. He has spent his entire legal career serving three different county attorneys protecting the citizens of Yavapai County. He has impeccable integrity and is the 2005 recipient of the Arizona Prosecutors Lifetime Achievement Award. Those who know Mr. Landis know he is an aggressive prosecutor who would unhesitatingly refuse to ever do anything unethical, improper or political. Mr. Landis spent many hours on this case. It is with sadness that I have seen his name unfairly maligned and his comments deliberately taken out of context for the sake of a “good story.”

**Myth #7: Mr. Bennett was given a deal due to a need to go on a “Mormon Mission”**

I am not sure where this myth was started but it is a matter that was never considered by this Office at all. The subject never even came up with me and was never discussed as a reason for any sort of resolution.

This case was handled according to the aggressive but reasonable prosecution standards established by this Office and applied to the many thousands of cases we handle every year. Neither Clifton Bennett nor Kyle Wheeler was given any preferential treatment. Any statements to the contrary that you may hear are based upon misrepresentations or rumors and I ask that you ignore them.

Finally, the criminal justice system has a “fail safe” for just such occasions: the Judge. In any criminal case, the judge has the obligation to look at the plea agreement and compare it to the facts to make sure justice is served. He/she has the duty to ensure that favorites are not
played within the system. In this matter, the judge found the plea agreement was fair and appropriate and does meet the ends of justice. Between my duty to serve you and the public interest and the judge’s duty to do the same, justice has been served in this matter.

I hope this has served to clear up some of the misinformation and rumors surrounding this case. Again, thanks to the many people that have expressed their support for me, the attorneys and the staff at the County Attorney’s Office and for our handling of this case. We all take seriously the trust the public has placed in us and take pride in the work that we do. We perform our duties according to the law and the ethical obligations placed upon us, and attempt to wisely and carefully use the discretion placed in this Office by the law. I will continue to be steadfast against outside pressure, whether it be political, media or otherwise, in all that I do.