



STATE OF NEVADA

## ADVISORY COUNCIL FOR PROSECUTING ATTORNEYS

CATHERINE CORTEZ MASTO  
*Council Chair*

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Reno, Nevada 89511

BRETT KANDT  
*Executive Director*

### COUNCIL MEMBERS

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## MINUTES

### ADVISORY COUNCIL for PROSECUTING ATTORNEYS

Minutes of the January 29, 2010, meeting of the  
State of Nevada Advisory Council for Prosecuting Attorneys -

held at the Office of the Attorney General - Mock Courtroom  
100 N. Carson Street, Carson City, Nevada 89701-4717

with Videoconference access to the Office of the Attorney General  
Grant Sawyer Building, 555 East Washington Avenue, Suite 3315  
Las Vegas, Nevada 89101

**I. Call to Order and Roll Call.** Council Chairman Masto called the January 29, 2010, meeting of the Advisory Council to order at 10:30 AM.

#### Members Present:

Catherine Cortez Masto, Chairman  
Arthur Mallory, Vice Chairman  
Richard Gammick  
Elizabeth Quillin  
David Roger  
Brett Kandt, Executive Director (recording secretary)

#### Member Absent:

Doug Gillespie  
Brad Jerbic

#### Other Attendees:

See attached sign-in sheet

**II. Introduction of new Council members.** The Council formally welcomed Henderson City Attorney Elizabeth Quillin as the new city attorney representative to the Council.

**III. Approval of Minutes.** Upon a motion by Richard Gammick, seconded by Art Mallory, and carried unanimously, the Council approved the September 10, 2009, meeting minutes. Upon a motion by Art Mallory, seconded by Richard Gammick, and carried unanimously, the Council approved the September 24, 2009, meeting minutes.

**IV. Chairperson's Report.** Chairman Masto reported that her office is working with the state's Community Coalitions to coordinate the collection of expired prescription drugs in community events statewide.

**V. Executive Director's Report.** Executive Director Brett Kandt reported as follows:

**A. Budget status and expenditures – B/A 1041.** Kandt referred to the most recent budget status report and reported that revenues are meeting projections.

**B. 2010 NVPAC events calendar.** Kandt reported that events currently scheduled include:

- 2010 Nevada Government Civil Attorneys Conference - May 12-14, South Lake Tahoe
- 2010 Nevada Prosecutors Conference - September 22-24, Virginia City
- 2010 Nevada Sexual Violence Prevention/Intervention Conference – November, Reno

**C. Grant funding for training and technical assistance.** Kandt reported that current available grant funding for prosecutor training includes:

- FY09 Nevada Office of Traffic Safety Project No. 29-K8-18-13 - \$7500.00 (prosecutor training)
- FY07 Violence Against Women STOP Subgrant No. 2007-STOP-10 - \$1994.85 (residual funding from the 2007 prosecutor training)
- FY09 Violence Against Women STOP Subgrant No. 2009-STOP-41 - \$14,300.00 (cycle of violence multidisciplinary training video)
- FY05 Capital Litigation Improvement Initiative Training and Technical Assistance Award #2005-DD-BX-K182 - \$15,597.88 (residual funding from the 2007 Regional Capital Litigation Seminar)

The Council discussed Violence Against Women STOP Grant funding opportunities for prosecutors; several prosecutors expressed frustration with the reporting requirements.

**D. Executive Director participation on state boards and task forces.** Kandt reported on the Nevada Access to Justice Commission and public lawyer compliance with RCP 6.1; Kandt opined that public lawyer compliance under subsection (a)(1)(iii) is significantly underreported and indicated that he had made a two-fold commitment to the Commission: 1) government offices would improve reporting under subsection (b); and 2) he would develop an ethics CLE on public lawyer compliance with the Rule.

**VI. Discussion and possible action on the Council's position on bill draft requests submitted for the 2011 Nevada Legislative Session.** The Council discussed developing legislative proposals over the next year, either for inclusion in the Attorney General's BDR package or sponsorship by a legislator. The Washoe County District Attorney's Office had questions with AB 164 and the definition of strangulation; Kandt indicated although the original definition drafted by prosecutors was the definition most prevalent in other statutes, the revised definition in the final bill should pose no problems for prosecutors.

## **VII. Other Matters.**

**A. Discussion of recent court rulings.** Richard Gammick pointed out the U.S. Supreme Court opinion in *Bobby v. Van Hook*, No. 09-144 (November 9, 2009) reiterated constitutional limitations on the use of performance standards to establish per se ineffective assistance of counsel.

**B. Discussion of sexting (disseminating indecent material via electronic communication device).** The Council discussed the problem of sexting and recent legislation from other states.

**C. Discussion and possible action on the Council's position on Nevadans for Sensible Marijuana Laws ballot initiative petition to establish a regulated market for marijuana.** Chairman Masto reported that her office is working with the state's Community Coalitions and the Nevada Sheriffs' and Chiefs' Association to coordinate a response to the ballot initiative; she introduced Mark Inman from Partnership Carson City, who provided information on national marijuana legalization efforts and the Marijuana Policy Project.

**D. Discussion and possible action on the Council's position on the Federal Public Defender practicing in state court, including possible notice to the Office of Defender Services (ODS) of the Administrative Office of the U.S. Courts.** No discussion.

**E. Discussion and possible action on the Council's position on the Nevada Supreme Court ADKT No. 411 regarding indigent defense.** The Council discussed the Nevada Supreme Court hearing on ADKT No. 411 held October 6 and the upcoming Indigent Defense Commission meeting scheduled for February 25.

**F. Discussion and possible action on the Council's positions on recommendations from the Nevada Advisory Commission on the Administration of Justice or its subcommittees.** Chairman Masto indicated that the ACAJ had reconvened on January 14 and various subcommittees would be meeting in the near future; Masto will once again chair the Victims of Crime subcommittee and Kandt and Roger will be serving on a new Reclassification of Crimes subcommittee.

**G. Report on Governor's Working Group on Methamphetamine Use.** Chairman Masto reported the Group is involved with the statewide effort to collect expired prescription drugs and also focusing on the negotiation of MOU's with tribal jurisdictions.

**H. Report on Nevada Domestic Violence Prevention Council.** Chairman Masto reported that the Prevention Council had received STOP grant funding to establish a statewide DV fatality review team; Kandt reported that the Criminal Justice committee was developing victim witness advocate protocols.

**VIII. Council Comments.** Richard Gammick reported that his office 1) is seeing defense attorneys collaborating to represent victims to undermine prosecutions and 2) may consider a writ petition as necessary in response to any further budget cuts in order to fulfill the statutory mandates imposed upon district attorneys

**IX. Time and Location of Next Meeting.** Upon a motion by Richard Gammick, seconded by Art Mallory, and carried unanimously, Council instructed the Executive

Director to coordinate a meeting date in conjunction with the next meeting of the Nevada District Attorneys Association in the spring of 2010.

**X. Public Comment.** Carson City District Attorney Neil Rombardo expressed concern with defense attorneys raising *Brady* issues over recanting victims in domestic violence cases.

**XI. Adjournment.** The meeting was adjourned without motion at 12:30 PM.

#### **CERTIFICATION OF SECRETARY**

I, Brett Kandt, the duly appointed secretary of the State of Nevada Advisory Council for Prosecuting Attorneys, do hereby certify that the foregoing is a true and correct copy of the minutes of the January 29, 2010, meeting of the Advisory Council, as approved by the Advisory Council on \_\_\_\_\_, 2010.

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Brett Kandt  
Secretary  
State of Nevada  
Advisory Council for Prosecuting Attorneys