



STATE OF NEVADA

## ADVISORY COUNCIL FOR PROSECUTING ATTORNEYS

CATHERINE CORTEZ MASTO  
*Council Chair*

5420 Kietzke Lane, Suite 202  
Reno, Nevada 89511

BRETT KANDT  
*Executive Director*

COUNCIL MEMBERS  
RICHARD GAMMICK  
DOUG GILLESPIE  
BRAD JERBIC  
ARTHUR E. MALLORY  
ELIZABETH QUILLIN  
DAVID ROGER

Telephone (775) 688-1966 • Facsimile (775) 688-1822  
Website: <http://nvpac.state.nv.us>  
E-Mail: [bkandt@ag.nv.gov](mailto:bkandt@ag.nv.gov)

## MINUTES ADVISORY COUNCIL for PROSECUTING ATTORNEYS

Minutes of the July 28, 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 July 28, 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. Approval of Minutes.** Upon a motion by Art Mallory, seconded by Elizabeth Quillin and carried unanimously, the Council approved the May 28, 2010, meeting minutes.

**III. Chairperson's Report.** Chairman Masto had no report.

**IV. 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. 2010-11 NVPAC events calendar.** Kandt reported that events currently scheduled include:

- 2010 Nevada Prosecutors Conference - September 22-24, Silverland – Virginia City
- 2010 Nevada Sexual Violence Prevention/Intervention Conference – November, 8-9. Ascuaga's Nugget Resort, Sparks
- 2011 Nevada Government Civil Attorneys Conference – May 11-13, South Lake Tahoe

**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 - \$7,500.00 (prosecutor training)
- FY07 Violence Against Women STOP Subgrant No. 2009-STOP-41 - \$14,300.00 (cycle of violence video/prosecutor training)
- FY07 Violence Against Women STOP Subgrant No. 2009-STOP-47 - \$12,000.00 (criminal justice training)
- 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)

**V. Discussion and possible action on the Council's position on bill draft requests submitted for the 2011 Nevada Legislative Session, including without limitation:**

**A. A BDR to address *Stephens Media v. Dist. Ct.*, 125 Nev. Adv. Op. No. 63 (December 24, 2009), to amend the jury examination statutes to provide that the responses in any questionnaires filled out by veniermen are confidential by law.** The Council discussed the importance of juror anonymity and the possible chilling effect of the opinion in question. Dick Gammick felt that this related to a larger issue of privacy along with the opinion listed under agenda item V(E) and might require a broader proposal.

**B. A BDR to address sexting (disseminating indecent material via electronic communication device), which could reduce the penalty for a first offense by minors involving minor victims to a misdemeanor with no requirement for registration as a sex offender.** Kandt reported that this proposal could be referred to the Technological Crime Advisory Board, but only if it had substantial support by law enforcement. The Council agreed that effective education outreach efforts had significantly reduced the problem of sexting.

**C. A BDR to address the regulation of synthetic cannabinoids and synthetic cannabinoid mimicking compounds, which may or may not fall within NRS 454.346 and/or be within the jurisdiction of the State Board of Pharmacy.** Mark Jackson reported that the State Board of Pharmacy will consider regulating synthetic THC as a Schedule I controlled substance at its next meeting. Ancillary issues include 1) laboratory detection and resulting evidentiary problems and 2) whether the criminal defense bar will advocate for reduced penalties.

**D. A BDR reclassifying certain category B felonies as category C felonies, excluding from consideration any violent offenses, sex offenses or DUI offenses.** Kandt reported that this proposal was on hold pending the next meeting of the Nevada Advisory Commission on the Administration of Justice.

**E. A BDR to address *Reno Newspapers v. Sheriff*, 126 Nev. Adv. Op. No. 23 (July 1, 2010), to amend NRS 202.3662 to provide that the identity of the permittee of a concealed firearms permit, and any post-permit records of investigation, suspension, or revocation, are confidential by law.** The Council requested that this be included as a possible action item along with agenda item V(A) for the September 23<sup>rd</sup> meeting.

**F. Any bill draft request listed on the Nevada Legislature website.** Kandt identified the following BDR's of possible interest: nos. 10, 12, 25, 27, 58, 74, 95, 103, 111, 153, 154. Assistant Attorney General Keith Munro reported that his office had already submitted BDR nos. 119-121 and requested feedback on proposals to amend NRS 2727.140, NRS 228.09, NRS 228.130, NRS 228.150, and NRS 357.070, explaining that the budget crisis was forcing his office to review the cost of providing services. Dick Gammick reported on legislative proposals under consideration by the Las Vegas Metro Police Department and the Nevada Sheriffs' and Chiefs' Association.

**VI. Discussion of recent court rulings.** No discussion.

**VII. Discussion and possible action on the Council's position on the Nevada Supreme Court ADKT No. 411 regarding indigent defense.** Dick Gammick reported that the Commission was still debating the definition of a "case" and Kandt reported that certain Commission members continued to mistakenly rely upon allegations of systemic ineffective assistance of counsel in other jurisdictions as evidence of a crisis in Nevada.

**VIII. 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 reported that the Victims of Crime subcommittee had recommended a proposal to prevent sexual assault victims from being subject to forced psychological testing by the defense. David Roger reported that the Reclassification of Crimes subcommittee had no recommendations, but that 2 major proposals under consideration by the Commission were 1) aggregating minimum sentences for parole eligibility, and 2) reclassifying category B felonies, including possible revision of the burglary statute into levels.

**IX. Discussion and possible action on the Council's position on recommendations from the Attorney General's Working Group on the Nevada Open Meeting Law.** Chairman Masto reported that this working group was still considering possible proposals for amending the open meeting law; Liz Quillin reported that NPRI was misconstruing the scope of the law in requesting access to city council briefings.

**X. Discussion and possible action on the Council's recommendations for the John R. Justice Grant (JRJ) Program (42 U.S.C. §3797cc-21) providing loan repayment assistance for eligible state and local prosecutors and public defenders.** Kandt reported that the State Public Defender was designated the agency for administration of this program in Nevada, but that he had had no response to his requests for information on the proposal for program implementation.

**XI. 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 introduced Linda Lang, who reported that the state's Community Coalitions are developing a response strategy to the ballot initiative petition.

**XII. Report on Governor's Working Group on Methamphetamine Use.** Chairman Masto reported that the Group 1) is considering seeking a BDR to establish a permanent working group and broaden its scope to all illegal drug use; 2) is following the developments regarding synthetic THC; and 3) is working on cooperative agreements with tribes.

**XIII. Report on Nevada Impaired Driving Advisory Coalition.** Kandt reported that the Coalition supports legislation to require ignition interlocks for all DUI offenses and to require BAC testing of all drivers involved in accidents resulting in a fatality.

**XIV. Report on Nevada Domestic Violence Prevention Council.** Chairman Masto reported that the problem of civil legal representation in the rural communities was highlighted at a recent Prevention Council meeting in Elko.

**XV. Council Comments.** None.

**XVI. Time and Location of Next Meeting.** Kandt reported that the Council is scheduled to meet in conjunction with the next meeting of the Nevada District Attorneys Association on September 23, 2010, at the 2010 Nevada Prosecutors Conference in Virginia City.

**XVII. Public Comment.**

**XVIII. Adjournment.** The Council adjourned without motion at 12:05 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 July 28, 2010, meeting of the Advisory Council, as approved by the Advisory Council on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Brett Kandt  
Secretary  
State of Nevada  
Advisory Council for Prosecuting Attorneys