



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

JIM DIXON
RICHARD GAMMICK
ARTHUR E. MALLORY
JOSH REID
NEIL ROMBARDO

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

MINUTES
ADVISORY COUNCIL for PROSECUTING ATTORNEYS

Minutes of the April 12, 2012, 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 April 12, 2012, meeting of the Advisory Council to order at 10:30 AM, and introduced three new members. Jim Dixon, Undersheriff, Las Vegas Metropolitan Police Department, was appointed by the Governor as law enforcement representative. Josh Reid, Henderson City Attorneys, was appointed by the Nevada League of Cities and Municipalities as a city attorney representative. Neil Rombardo, Carson City District Attorney, was appointed by the Nevada District Attorneys Association as a district attorney representative.

Members Present:

Catherine Cortez Masto, Chairman
Arthur Mallory, Vice Chairman
Jim Dixon
Richard Gammick
Josh Reid (arrived 10:45 AM)
Brett Kandt, Executive Director (recording secretary)

Members Absent:

Neil Rombardo

Other Attendees:

See attached sign-in sheet

II. Public Comment. None.

III. Approval of Minutes. Upon a motion by Dick Gammick, seconded by Jim Dixon and carried unanimously, the Council approved the December 20, 2011, meeting minutes.

IV. Chairperson's Report. Chairman Masto reported that after the enactment of AB 107, requiring law enforcement agencies to adopt written procedures on eyewitness identification, the Innocence Project contacted the Attorney General's Office requesting that the Innocence Project's Model Protocols for Eyewitness Identification be adopted by all law enforcement agencies, which includes any prosecutor's office employing investigators that are sworn peace officers under NRS chapter 289. Kandt reported that the Nevada Sheriffs' and Chiefs' Association was developing model procedures for its membership based upon procedures developed and adopted by the Las Vegas Metropolitan Police Department. Chairman Masto also reported that her office had formed a working group on the problem of the sexual trafficking of minors that was developing proposed legislation for the 2013 Session.

V. Discussion with Patrick J. Conmay, Records and Technology Division Chief, and Julie Butler, Records Bureau Manager, Nevada Department of Public Safety, regarding Nevada Offense Codes. John Helzer gave a brief history of the development of Nevada Offense Codes (NOC's) in both a 5-digit form and an 11-digit "smart" format, and identified issues arising in NOC use from booking to disposition (defined in NRS 179A.050) and on charging documents. Julie Butler referenced her Power Point presentation and gave a brief overview of the development of NOC's since 1985 pursuant to statutory requirements set forth in 28 CFR § 20.21(a)(1) and NRS 179A.070. Dick Gammick questioned why NRS subsections could not be utilized for the same purpose and expressed concern over the fiscal impact upon affected agencies. Mark Jackson indicated that Douglas County was installing Justware for case management and could serve as a pilot project for NOC implementation. LVMPD Legal Counsel Charlotte Bible reported that LVMPD and the Clark County District Attorney's Office were jointly transitioning to NOC's. Art Mallory expressed concern over NOC implementation as an unfunded mandate upon counties. DPS Director Chris Perry asked for input from all stakeholders on the NOC implementation effort. Chairman Masto recommended that any requests to the Nevada Legislature for funding for NOC implementation be submitted by criminal justice agencies as a group.

VI. Discussion regarding NRS 178.750 report submitted by district attorneys on homicides and related case data. Kandt reported that since, according to the Violence Policy Center, Nevada consistently ranks in the top five states for women murdered by men, the Attorney General thought it beneficial to gather statistics on domestic violence fatalities through the report on homicides and related case data currently submitted by all district attorneys pursuant to NRS 178.750. The district attorneys present indicated no opposition to identifying in the statutory report whether a homicide was a domestic violence fatality, i.e., whether the victim and the perpetrator had a relationship within the scope of NRS 33.018.

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

A. Budget status and expenditures – B/A 1041. Kandt referred to the budget approved for the current biennium.

B. 2012 NVPAC events calendar. Kandt reported that events currently scheduled include:

- 2012 Nevada Government Civil Attorneys Conference – May 14-16, South Lake Tahoe

- 2012 Nevada Prosecutors Conference – September 26-28, Pahrump

C. Grant funding for training and technical assistance. Kandt reported that the Council received \$19,000 in FY11 STOP subgrant funding (subgrant no. 2011-STOP-47) and an application was pending for JAG grant funding.

D. Executive Director participation on state boards and task forces. Kandt reported on his participation on a state task force on unlicensed healthcare and indicated that the law enforcement representatives involved had recommended stiffer criminal penalties for consideration as discussed under agenda item VII below. Kandt also reported that the Nevada Supreme Court issued ADKT No. 464 establishing the Transitioning Into Practice (TIP) Program and that any prosecutor's offices with newly-admitted lawyers must comply.

VIII. Discussion of potential bill draft requests for the 77th (2013) Nevada Legislative Session. Kandt referred to draft legislation to stiffen criminal penalties for unlicensed healthcare; the prosecutors present indicated they would want penalties to start at category C and progress to category B, but not to preclude prosecution under NRS 200.033 if death results. Kandt also reported that the Advisory Committee to Study Laws Concerning Sex Offender Registration was considering a proposal regarding juvenile sex offenders that required prosecutor input. Dick Gammick reported that the Nevada Sheriffs' and Chiefs' Association and the Nevada District Attorneys Association would be coordinating efforts regarding potential legislation.

IX. Report from Solicitor General on cases pending before Nevada Supreme Court of possible interest and discussion of recent federal and state court rulings. Solicitor General Wayne Howle reported on *Martinez v. Ryan*, 566 U.S. ___, No. 10-1001, where the U.S. Supreme Court by a 7-2 vote held that, in those states in which a defendant may not assert ineffective assistance of trial counsel on direct review but rather in a state collateral proceeding, ineffective assistance of state post-conviction counsel, or the lack of any counsel, can constitute "cause" that can excuse a procedural default that would have barred a federal habeas court from hearing a claim of ineffective assistance of trial counsel. The district attorneys requested that a presentation on the impact of *Martinez* be made by the Attorney General Appellate Division at the 2012 Nevada Prosecutors Conference.

X. Discussion of the following commissions:

A. Nevada Supreme Court Indigent Defense Commission (ADKT No. 411). Dick Gammick reported that he was meeting with the IDC Chair, Justice Cherry, to discuss the Washoe County Early Case Resolution (ECR) Program.

B. Nevada Advisory Commission on the Administration of Justice (NRS 176.0123). Kandt and Mark Jackson reported that the ACAJ was receiving a presentation from Dr. James Austin at the April 17 meeting and that Jackson was serving on a subcommittee to review the Presentence Investigation Report Process.

C. Nevada Crime Commission (Executive Order 2011-24). Dick Gammick reported that he is chairing the Commission's legislative subcommittee but the Commission had not yet developed any proposals.

XI. 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 referred to correspondence from the State Public Defender detailing the awards made for FY 10 through the program.

XII. Report on Attorney General's Substance Abuse Working Group. Chairman Masto and Mark Jackson reported that the working group had met March 28 and formed the following subcommittees: prescription drug abuse, synthetic drugs, and potential legislation. Mark Jackson referred to materials from the State Board of Pharmacy on prescription drug abuse and Schedule 1 synthetic drugs.

XIII. Report on Nevada Domestic Violence Prevention Council. Chairman Masto had no report.

XIV. Report on Attorney General's Domestic Violence Fatality Review Statewide Team (NRS 228.495). Chairman Masto reported that the statewide multidisciplinary team first met January 12 and would be reviewing a domestic violence fatality out of Nye County.

XVI. Council comments. None.

XVI. Discussion and possible action on time and Location of Next Meeting. Upon a motion by Dick Gammick, seconded by Art Mallory, and carried unanimously, the Council instructed the Executive Director to coordinate a meeting date in conjunction with the next meeting of the Nevada District Attorneys Association.

XVII. Public Comment. None.

XVIII. Discussion and possible action on adjournment. Upon a motion by Dick Gammick, seconded by Art Mallory, and carried unanimously, the Council adjourned at 12:15 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 April 12, 2012, meeting of the Advisory Council, as approved by the Advisory Council on _____, 2012.

Brett Kandt
Secretary
State of Nevada
Advisory Council for Prosecuting Attorneys