



STATE OF NEVADA

ADVISORY COUNCIL FOR PROSECUTING ATTORNEYS

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MINUTES ADVISORY COUNCIL for PROSECUTING ATTORNEYS

Minutes of the September 27, 2012, meeting of the
State of Nevada Advisory Council for Prosecuting Attorneys -

Pahrump Nugget – Conference Center
681 S NV-160, Pahrump, NV 89048

I. Call to Order and Roll Call. Council Vice Chairman Mallory called the September 27, 2012, meeting of the Advisory Council to order at 12:00 PM.

Members Present:

- Arthur Mallory, Vice Chairman
- Catherine Cortez Masto (represented by Russell Smith pursuant to NRS 241A.050(3))
- Jim Dixon (represented by A.J. Delap pursuant to NRS 241A.050(2))
- Richard Gammick
- Josh Reid ((represented by George Ward pursuant to NRS 241A.050(2))
- 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. Executive Director Brett Kandt noted that this agenda item had an incorrect date of April 28 rather than the actual meeting date of April 12 and requested that this item be deferred to the next meeting.

IV. Chairperson's Report. No report.

V. Discussion and possible action on ratification of former Clark County Assistant District Attorney Chris Owens as recipient of the 2012 William J. Raggio Award. Upon a motion by Dick Gammick, seconded by Russell Smith, and carried unanimously, the Council ratified Chris Owens as recipient of the 2012 Raggio Award.

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

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

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

- Effectively Investigating and Prosecuting Domestic Violence Seminar – October 4, Las Vegas
- 2013 Nevada Government Civil Attorneys Conference – May 1-3, South Lake Tahoe

Kandt was researching possible sites for the 2013 Nevada Prosecutors Conference; Steve Wolfson requested that Kandt research the feasibility of Laughlin.

C. Grant funding for training and technical assistance. Kandt reported the Council currently had \$19,000 in VAWA STOP subgrant funding (subgrant no. 2011-STOP-47); \$5,000 in JAG funding (project no. 09-JAG-33) and in excess of \$10,000 in residual funding from Capital Litigation Improvement Initiative Technical Assistance Award No. 2005-DD-BX-K182.

D. Executive Director participation on state boards and task forces. No report.

VII. Discussion and possible action on the Council's positions on any bill or bill draft request listed on the Nevada Legislature website for the 77th (2013) Nevada Legislative Session. (<https://www.leg.state.nv.us/Session/77th2013/>) Kandt referenced the list of Attorney General BDR's and the BDR watch list in the supporting materials. Kandt make specific reference to the following BDR's submitted by the Attorney General: BDR #402 (open meeting law) and BDR # 403 (sex trafficking). Kandt noted the following BDR's on the BDR watch list: BDR #137 (requiring DNA samples of individuals upon arrest) and BDR #462 (amend NRS 179.1173(3) to change the burden of proof to preponderance for civil forfeitures). A.J. Delap reported that law enforcement would seek BDR's for the following: amend NRS Chapter 289; \$.025 sale tax increase to fund more personnel; amend the trafficking statutes to include pill quantities; crimes involving hoax bombs; authorize a scrap metal tracking system; and amend NRS 179.075 to extent the statutory time limit for the execution of search warrants for DNA.

VIII. Report on cases pending before Nevada Supreme Court of possible interest and discussion of recent federal and state court rulings. Kandt reported the U.S. Supreme Court granted certiorari in two cases of particular interest: 1) the constitutionality of a statute requiring DNA samples of individuals upon arrest; and 2) the constitutionality of a warrantless blood draw for DUI under the exigent circumstances exception to the warrant requirement. Jim Shirley reported that the Nevada Supreme Court may hear an appeal involving county authority over BLM-managed lands. Art Mallory reported that the Nevada Supreme Court in In re Contested Election of Mallory, 128 Nev. Adv. Op. No. 41 (August 9, 2012), affirmed a district court order denying a petition to set aside the election of the Churchill County District Attorney, ruling that the office of district attorney is not a "state office" subject to term limits under Article 15, Section 3(2) of the Nevada Constitution, since Article 4, Section 32 of the Nevada Constitution declares district attorneys to be "county officers." Dick Gammick reported that his office has a case pending before the Nevada Supreme Court, Artiga-Morales v. State, case no. 60172, in which the State had taken the position that under federal law a district attorney cannot disclose venire member information (such as criminal histories) to the defense in preparation for jury selection.

IX. Discussion of the following commissions:

A. Nevada Supreme Court Indigent Defense Commission (ADKT No. 411). No report.

B. Nevada Advisory Commission on the Administration of Justice (NRS 176.0123). Kandt reported that Commission's final meeting of the interim was held August 28 and a final work session was scheduled for October 10.

C. Nevada Crime Commission (Executive Order 2011-24). Kandt reported that the following proposals submitted by the Governor will be reviewed by the Crime Commission: 1) BDR #336 to amend NRS 453.334 to provide for a 1st offense penalty for selling drugs to minors; and 2) BDR #337 to add attempted crimes to the elder enhancement statute, NRS 193.167.

X. Report on Attorney General's Substance Abuse Working Group (NRS 228.820). Kandt reported that the Working Group met July 19 and voted to submit BDR #218 to authorize the National Precursor Log Exchange (NPLEx): a real-time electronic logging system used by pharmacies and law enforcement to track sales of over-the-counter medications containing meth precursors.

XI. Report on Nevada Domestic Violence Prevention Council (NRS 228.490). No report.

XII. Report on Attorney General's Domestic Violence Fatality Review Statewide Team (NRS 228.495). Kandt reported that the Team met June 26-27 in Pahrump to review a domestic violence fatality out of Nye County and subsequently met September 19 to conclude its review and make findings and recommendations.

XIII. Council comments. None.

XIV. Discussion and possible action on time and Location of Next Meeting. Upon a motion by Dick Gammick, seconded by Russell Smith, 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.

XV. Public Comment. None.

XVI. Discussion and possible action on adjournment. The Council adjourned without motion at 12:50 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 September 27, 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