

## ADVISORY COUNCIL FOR PROSECUTING ATTORNEYS

Minutes of the September 24, 2015, meeting of the  
State of Nevada Advisory Council for Prosecuting Attorneys

Casa Blanca Hotel Resort, Cortez/Stardust Conference Room  
950 West Mesquite Blvd, Mesquite, NV 89027

**I. Call to Order and Roll Call.** Attorney General Laxalt called the September 24, 2015, meeting of the Advisory Council to order at 12:05 PM.

Members Present:

- Adam Paul Laxalt, Nevada Attorney General
- Chris Hicks, Washoe County District Attorney
- Steve Wolfson, Clark County District Attorney
- Art Mallory (represented by Lane Mills pursuant to NRS 241A.050(2))
- Josh Reid (represented by Marc Schifalaqua pursuant to NRS 241A.050(2))
- A.J. Delap, Las Vegas Metropolitan Police Department
- Brett Kandt, Executive Director (recording secretary)

Other Attendees: See attached sign-in sheet

**II. Public Comment.** Executive Director Brett Kandt reported that he was unsure of the effective date of A.J. Delap's appointment to the Council; Delap will therefore abstain from voting on any action items.

**III. Discussion and possible action on election of Chairman and Vice Chairman pursuant to NRS 241A.040(2).** Upon a motion by Steve Wolfson, seconded by Chris Hicks, and carried unanimously (A.J. Delap abstaining), the Council elected Adam Paul Laxalt, Chairman, and Art Mallory, Vice Chairman.

**IV. Discussion and possible action on appointment of Patricia D. Cafferata as Executive Director pursuant to NRS 241A.060.** Upon a motion by Chris Hicks, seconded by Steve Wolfson, and carried unanimously (A.J. Delap abstaining), the Council appointed Patricia D. Cafferata as Executive Director effective upon adjournment of the meeting.

**V. Discussion and possible action on approval of December 12, 2014, meeting minutes.** Upon a motion by Steve Wolfson, seconded by Chris Hicks, and carried unanimously (A.J. Delap abstaining), the Council approved the December 12, 2014, meeting minutes.

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

**A. Budget status and expenditures – B/A 1041.** Kandt reported that the budget was approved by the Legislature for the 2015-17 biennium.

**B. NVPAC events calendar.** Chairman Laxalt reported that he will be hosting the next Law Enforcement Summit on September 29<sup>th</sup> to further discuss issues of mutual concern and formulate responses. A future Summit is anticipated for February 2016 in conjunction with the meeting of the Nevada Sheriffs' and Chiefs' Association in Elko.

**C. Grant funding for training and technical assistance.** Kandt reported that all grant funding previously awarded to the Council had been expended.

**D. Executive Director's service on state boards and task forces.** No report.

**VII. Report from Solicitor General on cases pending before Nevada Supreme Court of possible interest and discussion of recent federal and state court rulings.** Chairman Laxalt reported that his office had filed a petition for a writ of certiorari in *Nevada v. Torres* (USSC Case No. 15-5), challenging a Nevada Supreme Court decision suppressing evidence under the 4<sup>th</sup> amendment. The petition presents two issues: 1) whether retaining Torres' identification to run a check on outstanding warrants was beyond the scope of an otherwise lawful *Terry* stop; and 2) whether discovery of an outstanding warrant can dissipate the taint of an otherwise lawful unlawful detention.

**VIII. Discussion of any bill or bill draft request listed on the Nevada Legislature website for the 78<sup>th</sup> (2015) Nevada Legislative Session.** (<http://www.leg.state.nv.us/Session/78th2015/>). Mark Jackson cautioned Nevada prosecutors to expect efforts to repeal or scale back AB 193 and recommended that all offices create an AB 193 log documenting the use of both the hearsay provisions and the audiovisual provisions at preliminary hearings. Christopher Lalli cited ADKT No. 424 adopting new Supreme Court rules regarding audiovisual appearances in criminal proceedings and advised that the Clark County District Attorney's Office was developing a protocol; the Council discussed the need for statewide consistency and requested that the protocol be disseminated by the Executive Director when available.

**IX. Discussion of and possible action response to January 2015 report from the U.S. Department of Justice Office of Justice Programs Diagnostic Center entitled "Analysis of Sentencing Reform and Offender Population for the Nevada Department of Corrections.** Brett Kandt and Mark Jackson provided background, expressed their concerns about the reliability of the report, and cautioned that it could be relied upon by the Advisory Commission on the Administration of Justice for legislative proposals.

**X. Discussion and possible action on identification of issues for consideration at future Law Enforcement Summits.** Chairman Laxalt reported that the September 29<sup>th</sup> Summit will include judges and agency heads and will feature panel presentations on issues of mutual concern, including the development of model policies on the use of body cameras.

**XI. Discussion of proposals for legislation for the 79<sup>th</sup> (2017) Nevada Legislative Session. (Discussion Only) Action may not be taken on any matter brought up under this agenda item until scheduled on an agenda for action at a later meeting.** Steve Wolfson indicated that NRS 176A.280, which authorizes courts to create a program for treatment of veterans, requires clarification on the dismissal/exclusion provisions of the statute.

**XII. Discussion of the following commissions:**

**A. Nevada Advisory Commission on the Administration of Justice (NRS 176.0123).** Mark Jackson reported that the Commission's first meeting of the interim had not yet been scheduled.

**B. Nevada Supreme Court Indigent Defense Commission (ADKT No. 411).** The Council discussed the Court's July 23<sup>rd</sup> Order adopting certain recommendations of the Rural Issues Subcommittee; the next meeting of the Commission is scheduled for November 23.

**C. Nevada Supreme Court Commission on Statewide Rules of Criminal Procedure (ADKT No. 491).** Mark Jackson reported that this Commission was created on January 23<sup>rd</sup> and included Jackson, Hicks and Wolfson as members. The Commission had held two meetings and formed four subcommittees. Hicks and Wolfson are serving on the LWOP/Death Penalty Pretrial Practice Subcommittee. Jackson and Wolfson are serving on the Motions Practice Subcommittee (intended to reconcile differences among rules of practice for local courts). Hicks is serving on the Discovery Subcommittee. Finally, Jackson is serving on the Jury Instructions Subcommittee. Hicks cautioned that trying to formulate statewide solutions for county-level problems was a challenge.

**D. Nevada Crime Commission (Executive Order 2011-24).** Kandt reported that the Commission, originally created by Executive Order on May 25, 2010, had expired by limitation on July 1, 2015.

**XIII. Report from the Attorney General on the following boards:**

**A. Nevada Technological Crime Advisory Board (NRS 205A.040).** Chairman Laxalt reported that the next meeting of the Board was not yet scheduled.

**B. Nevada Substance Abuse Working Group (NRS 228.820).** Chairman Laxalt reported that the next meeting of the Working Group was not yet scheduled.

**C. Nevada Domestic Violence Prevention Council (NRS 228.490).** Chairman Laxalt reported that the Prevention Council met July 22<sup>nd</sup> in Tonopah and that the next meeting is scheduled for November 9<sup>th</sup>, to be video-conferenced between Carson City and Las Vegas.

**D. Nevada Domestic Violence Fatality Review Statewide Team (NRS 228.495).** Chairman Laxalt reported that the next review was scheduled for December 8-9<sup>th</sup> in Ely. Mark Jackson reported that due to time constraints he would no longer be serving on the Team and requested that other prosecutors participate.

**XIV. Council comments.** Chairman Laxalt welcome input on the locations and topics for future law enforcement summits.

**XV. Discussion and possible action on time and Location of Next Meeting.** The Council instructed the Executive Director to coordinate a meeting date in conjunction with the next meeting of the Nevada District Attorneys Association in January.

**XVI. Public Comment.** None.

**XVII. Discussion and possible action on adjournment.** The Council adjourned at 1:35 PM.

#### **CERTIFICATION OF SECRETARY**

I, Patty Cafferata, 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 24, 2015, meeting of the Advisory Council, as approved by the Advisory Council on December 11, 2015.

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Patty Cafferata  
Secretary  
State of Nevada  
Advisory Council for Prosecuting Attorneys