



STATE OF NEVADA
ADVISORY COUNCIL FOR PROSECUTING ATTORNEYS
100 North Carson Street
Carson City, Nevada 89701

Theresa M. Haar, Special Assistant Attorney General
aginfo@ag.nv.gov
702-486-3420

DRAFT MEETING MINUTES

Organization: Advisory Council for Prosecuting Attorneys

Date and Time of Meeting: December 15, 2020 • 10:30 a.m.

Place of Meeting: Telephonic Conference Call
Number: 605-313-5111
Access code: 468822

Members Present:

Aaron D. Ford, Attorney General, Chair
Theresa Haar, Special Assistant Attorney General,
Executive Director
Christopher Hicks, Washoe County District Attorney
Art Mallory, Churchill District Attorney
AJ Delap, LVMPD
Steve Wolfson, Clark County District Attorney

Guests Present:

Anela Kaheaku, Attorney General's Office
Christopher Lalli, Clark County District Attorney
Jennifer Noble, Washoe County District Attorney

1. **Call to Order and Roll Call.**

2. **Public Comment.**

Churchill county has no COVID irregularities.

3. **Approval of minutes of September 28, 2020 meeting.**
(Attachment One (1) – Minutes September 28, 2020 Meeting).

Art Mallory moved to approve the minutes of the September 28, 2020 meeting and Steve Wolfson seconded the motion with the correction to the minutes as to Mr. Christopher Lalli misspelling of his last name, with no opposition, the minutes were approved.

4. **Discussion of prosecution-related issues as a result of Court closures due to Covid.**

Ms. Haar leads the discussion stating that there are two issues that the AGO has been seeing. First, AGO Prosecutors have been noticing that cases have not been going to trial and the fact that there may be a back log of cases in court once it opens up again. One thing that has been talked about is the prioritization of those cases once things open. The second issue has been coming from victims' advocate group. The general concern is the cases that have been resolved the victims have ongoing concerns regarding threats to themselves or other issues related to trial. Discussion is opened up to the members for thoughts on those issues or if there any other issues that they may have.

Mr. Mallory states that in the rural areas they are conducting hearings and appearances via Zoom, which is working well. They prioritize according to seriousness and people who are incarcerated who need to be brought to court as soon as possible.

Mr. Lalli states that in Clark County there are two courtrooms that are designed to address the pandemic. Justice Court is proceeding forward. Best Practices Committee has talked about a possibility bringing in senior judges and utilizing the regional justice center almost exclusively for criminal matters. They intend to sit down with Judge Bell and the leadership team to go over some ideas and hopefully have a plan in place this spring.

Mr. Hicks states that they are encountering many of the same concerns and like the rurals, they are having hearings via Zoom. The issue that they found is jury trials. They were able to conduct jury trials in October, but it was very difficult to do with the restrictions regarding Covid. They did find that jurors were actually there and very ready to serve. It was not as difficult to bring them in as they expected. They have a similar committee as Clark County in second judicial district and they are trying to work through a priority system. He is eager to see what the Best Practices Committee will come up with. He states that their jail population is down 30% and part of that is due to pre-trial releases due to Covid outbreaks, but also it is due to crime rate being down. They are also doubling their efforts as to the victims to make sure that they are okay and be understanding to their efforts during this difficult time.

Mr. Mallory asks about the incarcerated population and if there will be a vaccine available to them.

AG Ford states that at the state prison level there is a lot of conversation around what to do. He has seen that in some of the facilities inmates and sometimes workers/correctional officers are refusing to take the vaccine. They are trying to figure out legally what the alternatives are. This issue is on the Governors radar. It is AG Ford's understanding that the institutions are one of the top tiers to receiving the vaccines.

Mr. Mallory states that they have done research on the possible requirements for first responders/law enforcement personnel to be required to be vaccinated. He would be interested in finding out if there are any other research or thoughts regarding this.

AG Ford states that he is interested in comparing notes regarding this issue.

Ms. Haar asks Mr. Delap for his input on Metro mandate on the vaccine, is he able to add anything. Mr. Delap states that he doesn't have any details on this but will circle back when something becomes available.

5. **Discussion of 2021 Legislative session.**

AG Ford states that he would begin by highlighting three BDRs for discussion. They had 20 bills available but only used 15 and of those 15 there are three that are related to the criminal justice side. One relates to pattern or practice investigations. They are setting up meetings with law enforcement regarding this. The second bill relates to no knock warrants. It is not an elimination of no knock warrant but a restriction. The third is a provision in officer involved use of force that resulted in intentional bodily harm or officer involved shootings that resulted in death. He would like to learn from the committee ways in which the AGO can be more engaged in the statutory process of this.

Mr. Mallory states that they have requested that all of the law enforcement agencies allow his offices to do an internal review. This puts a buffer between the officers doing the review of peers. It might be good to include an element of the AGO in the process. He thinks it might help the public concern.

AG Ford concurs with this thought and it may help improve the practices across the board. He would like to engage in conversations with everyone how the AGO can be more involved and engaged in the investigative process on the side of law enforcement but also prosecutorial side with the committee.

Mr. Mallory states that in an effort to avoid any appearance of impropriety, the process would be to have an independent authority to review what happened. He believes that this would help the public understand the process a lot better.

Mr. Wolfson asks for clarification that AG Ford intends to remove the part that involves the language regarding AG review of these types of cases from the bill.

AG Ford states that it would be at a minimum an amendment. At the moment the AGO does not have the capacity to take on a lot of this. He would like to the opportunity to speak with everyone and get up to speed with all of this. He asks if there is an exchange of information regarding notification of an officer involved shooting that they notify the AGO.

Mr. Wolfson states that law enforcement should be on board with this. Notification should come from law enforcement also. LVMPD briefings are conducted within 48 to 72 hours. Clark County DA's office is invited to these briefings and maybe the AGO could be invited. There are subsequent processes in place that the AGO could be a part of also.

AG Ford states that is what he was referring to. The 72-hour briefing is an opportunity for AGO to be educated on what law enforcement does on the ground. He wants to be involved to educate the public on what has transpired.

Ms. Haar states that there is small clean up. One is the pen register. It is proposed to bring it into the modern world of allowing for electronic signatures and any task forces that involves state, local, and federal officers. All officers on the task force has equal ability and authority to apply for search warrants do pen registers and that sort of thing. Another item is domestic violence statute, battery on a pregnant victim, adding a penalty to that item.

Another item is City of Henderson proposed a cleanup of the Andersen jury trial issues for municipalities, that for domestic violence cases municipalities do have the authority to do jury trials but in the alternative if there is a domestic violence charge and related felony charge, they can be consolidated to a single district court jury trial.

6. Public Comment.

Action may not be taken on any matter brought up Public comment shall be limited to five (5) minutes per person. Action may not be taken on any matter brought up under this agenda item, until scheduled on the agenda of a future meeting for possible action.

AG Ford asks if there are any other comments. None.

7. Adjournment.

Motion to adjourned by Mr. Mallory and second by Mr. Hicks.

Minutes respectfully submitted by Anela Kaheaku, Legal Secretary II