

**ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE'S
VICTIMS OF CRIME SUB-COMMITTEE**

MINUTES OF MEETING

April 14, 2014

Office of the Attorney General
Mock Courtroom
100 N. Carson Street
Carson City, NV 89701

VIDEOCONFERENCE TO:

Office of the Attorney General
Grant Sawyer Building
Room 4500
555 E. Washington Ave.
Las Vegas, NV 89101

1. Call to order and roll call of members.

Chairperson Catherine Cortez Masto called the meeting of the Advisory Commission on the Administration of Justice's Victims of Crime Sub-Committee to order at 1:00 p.m. Senior Deputy Attorney Henna Rasul called the roll.

Members Present:

Catherine Cortez Masto, Attorney General – Chair
Lisa Morris Hibbler, Victims' Rights Advocate, Advisory Commission of the Administration of Justice, Vice Chair
Kelly Ann Kossow, Deputy DA, Washoe County
Megan Long, Victim Advocate, Washoe County School District Police Department
Colleen McCarty, Esq., Gordon Silver
Halleh Seddighzadeh, ARMAN (Asylee Refugee Migrant Assistance Network) Forensic Tramatologist
Elisabeth MacDowell, Directory of Family Justice Clinic, Boyd School of Law
Kyle Ward, LVMPD, Homicide Review Team
Lidia Stiglich, District Judge, Department 8, 2nd Judicial District Court
Kathy Harris, LSW, Nevada Urban Indians, Domestic Violence Specialist

Members Absent

Susan Meuschke, Ex. Director, Nevada Network Against Domestic Violence
Howard Skolnik, Former Director, Nevada Department of Corrections.

Others Present

Henna Rasul, Senior Deputy Attorney General, Office of the Attorney General
Heather Cooney, Legal Secretary, Office of the Attorney General
Marti Washington, Grants and Projects Analyst, Office of the Attorney General
Elizabeth Greb, Grants and Project Analyst III, Office of the Attorney General

2. Comments from the public

Chairperson Masto opened the floor for public comment.

No public comment

3. Approval of August 15, 2012 minutes.

Henna Rasul advised the committee that as this was entirely a new committee with the exception of General Masto, and given that the minutes had been distributed to all current committee members the current members could approve the minutes with General Masto's acknowledgment that the minutes as prepared were a true and correct representation of what occurred at the meeting.

Chairperson Masto made such a representation. A motion was made to approve the minutes, was seconded and passed unanimously.

4. Presentation by Nicolas C. Anthony, Senior Principal Deputy Legislative Counsel, on the Advisory Commission on the Administration of Justice.

Mr. Anthony made the following presentation:

The Advisory Commission grew out of the former Sentencing Commission which oversaw how the sentencing guidelines were working. The commission lay dormant for several years.

In 2007 the Legislature reconstituted the Commission and created statutorily in NRS 176.0121-176.0129 the Advisory Commission on the Administration of Justice. The Commission is made up of 17 members, from all different areas of the state and all different areas related to criminal justice. The Attorney General is a member along with legislators, prosecutors, defense attorneys, judges and other interested parties. The Commission meets every other year when the Legislature is not in session. It typically holds 6-8 meetings and functions as an advisory body to the Legislature. After their meeting the Commission issues a final report which is submitted to the next legislative session.

The specific duties of the Commission are spelled out in NRS 176.0125. They basically grow out of the State's concern regarding sentencing and how our criminals are prosecuted, whether or not they are actually serving out their sentence and how that relates to our Department of Corrections, Parole and Probation functions, and the use of dollars in criminal justice. Topics such as collateral consequences and civil commitment of sex offenders have been added to the topics the Commission can consider.

The Commission's final report can be found on the website or on the Legislative Counsel Bureau's website. In the report to the 2013 Legislative Session, the Advisory Commission considered 21 recommendations for possible legislation of which the Advisory Commission advanced six to the 2013 Legislature. Four were passed and enacted. AB 307 came from this Advisory Commission Sub-Committee and is related

to sexual assault victims and how the bills for their forensic medical exams are paid and whether they should be paid by the county. It also mandated that there did not need to be a police report in order to qualify for those services.

There were three other bills that passed, AB 91 dealing with regimental discipline, AB 423 dealing with pre-sentence investigation reports and the time for getting those to prosecution and defense counsel and SB 71, the aggregation of consecutive sentences.

There are five sub-committees of the Advisory Commission:

1. The Sub-committee on Juvenile Justice
2. The Sub-committee on Victims of Crime
3. The Sub-committee to Review Arrestee DNA
4. The Sub-committee on Medical Use of Marijuana
5. The Sub-committee Concerning Language Access in the Courts.

The last three were approved during the 2013 session. The first two were established in statute in 2009. General Masto has chaired the Sub-committee through each of the four interims.

The Sub-committee reports to the whole commission in an advisory capacity. There are no specific duties or requirements for membership rather the Sub-committee is charged with looking at everything and anything related to victims of crime in Nevada. In the past this Sub-committee has advanced recommendations related to compensation to victims of crime, legislative enactments to keep up with the Violence Against Women Act at the federal level, domestic violence issues and the like. This Sub-committee is a public body subject to all open meeting laws. It has been staffed through the Attorney General's Office.

The next full commission meeting will be Thursday, May 1, 2014 in Las Vegas and video conferenced to Carson City.

Chairperson Masto asked Mr. Anthony to discuss the Justice Reinvestment Act.

Mr. Anthony stated that the Justice Reinvestment Act is a broad based approach funded through the BJA (Bureau of Justice Assistance) at the federal level. They provide funding and work with technical assistance providers such as the Council of State Governments and the Pew Charitable Trust. The Advisory Commission is in the process of reaching out to technical assistance providers to more effectively, both at the cost savings level and at the criminal justice level, effectuate criminal justice across the state. 21 states have gone through the Justice Reinvestment Initiative process. Nevada is considering looking at their category B felonies. A large proportion of our prison inmates fall under category B. Category A is the most serious, Category B the second most serious. The Commission is interested to see if we have a disproportionate representation of Category B offenders currently in prison and whether there are some changes that could take places in our statutes to move lower offences such as low level burglary or low level drug offenses out of Category B and perhaps some need to be moved up.

Governor Sandoval indicated that he was supportive of anything the Advisory Commission wants to do in this area. The Governor's office was provided with samples of what the other 21 states have done. One of the key components of qualifying for this assistance is buy in from all three branches of government. Currently Nevada believes they have that.

Chairperson Masto added that the funding for victims of crime services is a key component of this, identifying the need and sustaining the funding. She stated she would like to share with the group not just the JRI information but also the networking report, how it was implemented and how they obtained funding.

Mr. Anthony will forward the JRI Initiative, the Oregon presentation and the legislation that was passed to Linda Fitzgerald for distribution to the group.

5. Presentation by Rebecca Salazar, Program Manager, on the State of Nevada Department of Administration Victims of Crime Program. (VOC Program)

Ms. Salazar made the following presentation: The program was established in the late 60's but became did not become staffed until 1989. VOC assists victims of violent crime primarily by paying medical bills. We do offer other services like counselling, relocation funeral burial and others. Our funding is from restitution, court filings, assessments, and a federal grant.

Our second quarter report shows VOC satisfied over \$13,000,000 in bills with just over \$3,000,000. VOC receives the bills, applies a set fee schedule and then sends the provider a payment. NRS 217.245 states that if a provider accepts our payment the victim is not liable for the balance.

The report recommends that we continue to pay bills at 100% of our approved amount and we expect to be able to do so for the next couple of years. VOC is required to carry a reserve which currently is in the amount of \$6,500,000.

Chairperson Masto added that a concern has always been continued funding for this program. Because much of the funding comes from court assessments it is particularly challenging. These assessments fund not only this program but also many other programs that service victims of crime and these assessments have been going down. We always need the help of our judiciary to determine if we are getting the amount of money we are entitled to.

Chairperson Masto asked Ms. Salazar to speak on the application process and what the parameters are.

Ms. Salazar stated that a victim has to be a U.S. citizen, to not have caused the victimization, to have reported the crime to the police within five days and apply to the program within one year of the crime. The crime has to be a violent crime against a person. Victims find out about the program from police, victim's advocates and hospitals.

Ms. Salazar added that if the crime is not reported within the stated time frame there are waivers for good cause. An aggrieved victim can also appeal the decision administratively in the State Hearings Division, and if still aggrieved can be heard before the Board of Examiners.

6. Report from the Attorney General's Office on Violence Against Women STOP Grant and update on Grants Unit activities and Victim Assistance Academy, (VAAN) Liz Greb, Grants and Project Analyst III, and Martie Washington, Grants and Project Analyst II, Office of the Nevada Attorney General.

Elizabeth Greb made the following presentation: We are mostly funded through the Department of Justice, Office of Violence Against Women. The largest grant we get is the STOP grant which is just under \$1.5 million for Nevada. There is a set formula in which every state gets approximately \$750 thousand and additional amounts determined by population. We will see about a 1.2% increase in the amount we will be awarded this fall for FY2014.

We also get a formula grant for sexual assault services providers that are strictly for victims' services. The STOP is funded for prosecutors, law enforcement, victims' services, courts and discretionary projects. They have now given the state power to reallocate amounts between the categories. They have also added some purpose areas regarding the Prisoner Rape Elimination Act which involves providing services for prisoners. They will be taking 4.95% of the STOP allocation to our state and that money must be used to comply with the Prisoner Rape Elimination Act or if the state decides they are not going to comply then the funds are withheld from Nevada. Nevada has until May 15th to send the letter certifying whether we are or are not in compliance. Nevada is going to try to reach compliance and there are tentative plans on how the money will be used. Some of the money will be coming out of law enforcement to NDOC to help with training and with some of the secondary reporting requirements that they have. Some of the money will be going to non-profits in Clark County specifically the Rape Crisis Center which is already doing some work in the prisons.

Another requirement we have to comply with this coming year is to spend at least 20% of our STOP allocation on sexual assault services. We just did our report for STOP 13 and have already spent almost 17% of our allocation on sexual assault services. With the PRIA penalty, that will actually take us over the 20%. There are efforts right now to remove STOP from the PRIA penalty in following years. We have been trying to improve sexual assault services but now there is a measurable financial incentive to improve these services to keep from losing any of these funds.

We go after discretionary grants as well. Currently we have a RURAL grant to encourage collaborative partnerships among criminal justice agencies, victim service providers and community organizations to respond to these crimes. In addition, we have been awarded the GTEAP grant which Encourages Arrest Policies and Enforcement of Protection Orders Program. These fund two different regional projects in the rural counties. These are prosecutor and services projects where we are funding a deputy attorney general who is crossed deputized with the D.A. to improve prosecutions and investigations in those regions to hold perpetrators accountable because the regions have so few prosecutions that there is deterrent effect in actually prosecuting and convicting these perpetrators. We have also have a Children Exposed to Violence Program. Funding will be ending in September but we are looking for other funding. There are not a lot of intervention funds dealing with minors. We have also applied in this grant year for an elder abuse training grant and just finished applying for a DOJ Smart Office Sex Offender Registration and Notification Act project. This will be a rural interdiction project in which we will have a specialized investigator from our office

to work with rural jurisdictions to improve sex offender registration and notification. We already have rural prosecutors in place for the other projects that right now cannot take on these crimes because they are not compliant with their funding. If the grant is successful they can start taking on some of these sex offender registration compliance cases. We are also looking at the Human Trafficking Grant that is coming up in May. Other projects include providing rural law enforcement training. We are going to be bringing a one day training regarding sexual assault on the new trafficking legislation to multiple jurisdictions along the Hwy. 50 and Hwy. 80 corridors in Central and Northern Nevada.

Martie Washington made the following presentation:

In 2009 the Governor's Methamphetamine Working Group recommended that there be an office for drug endangered children (DEC). It was created in the legislature that year and placed within the Attorney General's office. It was unfunded until 2011, when we received a Justice Assistance Grant which has been funding it ever since. We are working with each community statewide to develop a response to drug endangered children with the first responders. We have completed a series of trainings with law enforcement and child welfare services in Reno on April 29th and, Las Vegas on May 1st which was a multi-disciplinary training. Training for medical personnel will be in Las Vegas on August 6th, in Reno on September 11th in and in Winnemucca on September 12th. Continuing education units will be available for medical, law enforcement and social work personnel. With the grant that we have just submitted for next year will move toward the educational sector because the children sooner or later will go to school.

August 22nd in Reno will be the first Victims Assistance Academy of Nevada (VAAN) whose purpose is to gain consistency statewide for advocates. We have eight scholarships to give out. The Nevada Prevention Council donated five of the eight scholarships. We have grant funds to cover transportation for those who are traveling more than 50 miles. We will be focusing on advocates this year but hope to open it up to other disciplines next year.

7. Presentation by Kareen Prentice, Domestic Violence Ombudsman, Office of the Nevada Attorney General, on Victims Information Notification Everyday (VINE) program.

Kareen Prentice stated the Office of the Attorney General, with the Department of Corrections, wrote a grant that we received from the Bureau of Justice Assistance in 2009. We just closed that grant in March 2014. VINE is live everywhere but the City of Henderson because of problems with the jail management system. We hope to be live in Henderson by the end of May. We also are not live at the Parole Board but they should be coming on board by the middle of May. At this point we are live in 21 jails.

Right now law enforcement training is difficult. We are working with Nevada's E-Learn site and have an online webinar that offers films specific to Nevada and will be going live in May. It will have POST credits and can be accessed anywhere on the computer from any state, city or county agency.

We also just released a VINE survey which is on our website. Questions included whether the survey taker had used vine and what their experience had been. More in

depth questions we were asking was if they would be interested in notifications for court dates and locations, text messaging and a registration link. The link would allow your registration to follow the offender when transferred to another facility or to Parole and Probation without re-registering with VINE. Approximately 47 people have completed the survey and most wanted text messaging which is a \$25,000 upgrade. We're still in the process of reviewing it.

APPRIS, wide area collection system which will be happening in July to replace their antiquated system. It is supposed to be much easier for rural counties who have trouble with intermittent internet service.

We currently are funded by a STOP grant for this service. We are funded by the JAG Byrne grant from the Department of Public Safety for the program assistant, Jennifer Kandt, as well as doing some of the rural outreach and training. Last year we did 12 community trainings throughout the state. We are setting up in August to come back to Henderson.

Last year we also worked with 15 jails on their EOL procedures. We just learned about the Interstate Compact Offender Tracking System (ICOTS) which tracks if someone is moving from parole in Nevada to Iowa we make sure that IOWA knows so that victims are informed.

9. Comments from the working group members (taken out of order)

Chairperson Masto advised the group regarding the group's goal to represent all victims of crime which will require all members to utilize their professions and passions to address the issues, and encouraged the members to bring their ideas to the group. The members each introduced themselves.

Chairperson Masto asked for ideas from Kareen Prentice, Liz Greb, Marti Washington and Rebecca Salazar regarding issues the sub-committee had been working on in the past and where we still need to go in terms of victims assistance.

Liz Greb commented regarding finishing the SORNA grant and stated we are partnering with DPS as they are the criminal repository for most of the registries. She added that we have been trying to work on the protection order registries since 2003. One of the issues is that although we are relying more and more on technology and interconnectivity between jurisdictions there is no standardization as to requirements. DPS is applying for a technical grant to improve the software they are using for the registry but it's not necessarily going to be compatible with other agencies. While most of the rural counties are still doing manual registry, the larger counties have purchased commercial software that does not necessarily have the blessing of the federal funders. This is creating a real barrier when it comes to victims services because if people cannot communicate information to the victims it does not matter how quickly you can register them. The commercial vendors have not been very interested in solving the problem.

Chairperson Masto stated that there is already a working group subcommittee to address the Adam Walsh Act and directed Ms. Greb to contact Keith Munro regarding this issue.

Marti Washington stated that this committee in the past has discussed sexual assault nurse examiners and the problem of nurses becoming certified in the rural areas because it was difficult for the nurses to get the required 60 hours of supervised practical experience with victims. She added she would really like to see this committee keep this issue on the radar and added there are only about 10 nurse examiners state wide.

Kareen Prentice stated that the nursing board took the recommendations from our committee and deleted the portion that was having nurses struggle to get that certification. It was taking 2 years to be certified. She added she would like to follow up to see if more people are applying.

Marti Washington stated that it is still the case currently that if you get sexually assaulted the rurals you still have to drive for hours to get a sexual exam and the only transport is a police vehicle.

8. Case study regarding State of Nevada VOC Program as it pertains to a request for compensation for survivor benefits for an adopted child. Rebecca Salazar, Program Manager, State of Nevada Department of Administration VOC Program. (Taken out of order)

Rebecca Salazar stated that a deceased victim had a child who was adopted when she was approximately 6 years old. She is now 17 years old. Her natural father is murdered here and the adoptive mother made a request for survivor benefits which we denied. The statute we cited was NRS 217.040 stating that "dependent" means the relative of a deceased or injured victim that is wholly or partially dependent upon their income at the time of death or injury. VOC reasoned that she was adopted, he didn't have any financial responsibility to her and so denied it. The adoptive mother stated to the Appeals Officer that the father never provided for anything financially. Although it was clear, there were some concerns presented at the Board of Examiners meeting.

Chairperson Masto added that the Secretary of State brought up the question of what burden the child has to meet to prove they were a dependent. One option the VOC made was for the child and/or the mother to provide tax returns from the deceased father to see if the father was claiming the child was a dependent. The question then became how would the child/mother acquire these returns

Chairperson Masto told the Board of Examiners the sub-committee would discuss this and get back to them. She advised that the question before them is if we need new policy or legislative change to the Victims of Crime Compensation Program to allow for funding in this kind of scenario or perhaps no action is necessary.

Rebecca Salazar stated depending on the scenario there are multiple documents we would be willing to review but the mother failed to provide any documentation at all. Documented child support payments as an example would suffice if he was not claiming the child on his taxes.

Chairperson Masto added that the question was if he was providing some sort of support, i.e. a cell phone, had communication with her, visiting with her, etc. What type of dependency are we looking at here when we are looking at the definition of "dependent." In this case there was no way for the mother and child to delve into the

father's finances to make that determination so what could they show? Chairperson Masto stated that the members will be given the larger packet with more of the information and the committee will review to see if there is something we should address.

Rebecca Salazar added that Secretary Miller suggested we look to the State of Connecticut for their law. They do not have a statute that deals with financial dependents. They search for any children of the deceased by contacting family members. They require a long form birth certificate naming the deceased as the parent and then hold the money in trust until the child turns 18. She added that this doesn't mesh well with Nevada's current practices. Our program is more interested in providing assistance on an immediate basis rather than holding money in trust for years. Ms. Salazare offered to talk with all of the states to see what they do and prepare a report for the Sub-committee's review.

Chairperson Masto stated she would like the committee to look at just Connecticut's statutes initially.

The sub-committee will be making a presentation on this topic to the Board of Examiners.

10. Comments from the Working Group

A question was asked regarding the best way to submit recommendations or ideas to the sub-committee.

Henna Rasul responded that pursuant to open meeting law, members should not talk to one another regarding anything related to the Sub-committee's business. If a member wishes to provide the other members with materials or information it should be submitted to Linda Fitzgerald for distribution to the other members. Even speaking to one other member creates the risk of serial communication. The goal is to have all discussion in a public forum.

Chairperson Masto stated that the sub-committee is required by statute to meet quarterly and that the sub-committee's role is incumbent upon the Advisory Commission's meetings. Some of the Sub-committee's meetings have not taken place because the Advisory Commission had not met and added It is best to have the sub-committee meeting just prior to the Advisory Commission meeting.

Chairperson Masto recommended that Linda Fitzgerald be tasked with setting up the next meeting, coordinating with the member's schedules.

A question was asked about what is happening with the Court Assessments and why they are not being received.

Kareen Prentice reported that she has reached out to the Administrative Office of the Courts as we have developed some tools to make it easier for court staff. She added the AG's office receives \$35.00 for every battery conviction for domestic violence but that funding is down. Kareen Prentice will ask Stacy from the Administrative Office of the Courts to make a presentation.

Rebecca Salazar commented that one issue for the Victims of Crime Program is that VOC does not require victims to repay the program except in the case of subrogation, civil recovery or restitution. In southern Nevada the judge orders repayment or restitution to the program. She stated that it typically does not happen in Northern Nevada and that she has had two DA's call asking for the pertinent statute for ordering restitution to the program. They prefer to pay the victim who then is not required to repay the program. Ms. Salazar asked for discussion.

Kareen Prentice stated that the issue could be part of a larger discussion because the state has a very difficult time collecting restitution from paroled inmates as well.

Chairperson Masto asked if the victims were required to sign anything stating that if they receive restitution they were required to repay the program. Ms. Salazar responded that they do sign a release but the receipt of restitution is typically so many years later that the victim forgets about it.

Chairperson Masto stated that Nevada is putting together a Solutions Summit in May to look at the needs for victims of sex trafficking including treatment, prevention and intervention. One of the issues we need to have a discussion on is the "Safe Harbor" provision because there are two separate factions on what they believe should be done. We will try to have a discussion on that issue at the Summit.

13. Comments from the public.

No comments from the public.

14. Adjournment.

The meeting was adjourned at 3:41 p.m.