



OFFICE OF THE ATTORNEY GENERAL

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MEETING MINUTES

Name of Organization: Technological Crime Advisory Board

Date and Time of Meeting: December 10, 2015 – 9:00 am

Place of Meeting: Video Conferenced Between:

Attorney General’s Office
Executive Conference Room
100 N. Carson Street
Carson City Nevada

Sawyer Building, Room 3315
555 E. Washington Avenue
Las Vegas, Nevada

Attendees:

Las Vegas:	Carson City:
<p><u>Members:</u> Adam Laxalt, Attorney General Patricia Cafferata, Executive Director Hal Berghel Dennis Cobb Edgar Flores Jim Owens Brian Spellacy</p> <p><u>Guests:</u> Rod Swanson Daniel Westmeyer</p>	<p><u>Members:</u> “Tray” Abney Shannon Rahming</p> <p><u>Guests:</u> Elizabeth “Liz” Greb Ira Victor</p>

- 1. Call to Order and Roll Call:**
Meeting called to order at approximately 9:00am.
- 2. Public Comment. 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:**
No public comment.
- 3. Attorney General Adam Laxalt’s Welcome. Self-introduction of members:**
Attorney General Adam Laxalt introduced himself. Attendees introduced themselves and explained how they are beneficial to this committee.
- 4. Discussion for possible action on approval of June 5, 2014 meeting minutes:**
AG Laxalt asked for approval of meeting minutes from June 5, 2014. Owens made the motion. Berghel seconded the motion and the meeting minutes were approved as written.

5. Executive Director Patricia Cafferata's Report:

Executive Director Patricia Cafferata reported on her activities as the new Executive Director of the Board.

6. Discussion for possible action to elect a chair and vice chair for a six month term, ending on June 30, 2016. New elections will take place before the end of June, 2016. A full one year term begins on July 1, 2016. NRS 205A.040.4. Traditionally, the Attorney General has been elected chair, and one of the legislative members has been elected as vice chair:

AG Laxalt asked for a motion to elect a chair and vice chair for the committee. AG Laxalt was proposed as the chair and Assemblyman Flores as the vice chair. Berghel made a motion and Owens seconded that motion and the motion passed unanimously.

7. Discussion for possible action on applying for grants to fund the Board's activities. NRS 205A.100. Presentation by Liz Greb, Grants Management Analyst, Office of the Attorney General:

Currently, the committee is funded from the Attorney General's general fund budget. Grants Management Analyst Liz Greb explained that the committee could apply for grants to help with funding the committee's programs, per NRS 205A.100. She suggested looking for grants to fund areas of crime that use electronic devices, such as, internet soliciting or activities using computers, cell phones or other electronic devices. Greb estimated there may be between \$100,000 and \$300,000 available for grants where technology was used in crimes against children and human trafficking. Grants could be used for training or to purchase equipment, and are available for both legal and law enforcement purposes. Both Berghel and Spellacy mentioned that training resources may also be available for free from different agencies.

8. Discussion for possible action on the Board's plans on how to fulfill its required duties set forth in NRS 205A.60:

AG Laxalt read the following five bullet points of the committee's legislative duties, per NRS 205A.60.

- a. Facilitate cooperation with state, local and federal officers in detecting and prosecuting technological crimes.
- b. Establish, support and assist in the coordination of activities between two multiagency task forces on technological crime, one based in Reno and one based in Las Vegas. (Washoe County Sheriff's Office Internet Crimes Against Children (ICAC) Task Force and Las Vegas Metro Police Department ICAC Task Force.)
- c. Coordinate and provide training and education of members of the general public, private industry and governmental agencies concerning the statistics and methods of technological crimes and how to prevent, detect and investigate technological crimes.
- d. Assist the Division of Enterprise Information Technology Services (EITS) in securing governmental information systems against illegal intrusion and other criminal activities.

- e. Evaluate and recommend changes to the existing civil and criminal laws relating to technological crimes in response to current and projected changes in technology and law enforcement techniques.

Discussion with regard to bullet point c, Victor mentioned that there may be possible ethical issues with attorneys not understanding the difference between paper and digital information for criminal and civil issues.

Spellacy stated his agency, US Secret Service, meets with the casinos to see what technological crimes have been occurring. He also mentioned he could send information about the trends in scams/activities.

Owens suggested education programs for the general public to learn how to prevent crimes of this nature.

Cobb suggested the committee consider monthly press releases to inform the public about ongoing cyber threats.

Assemblyman Edgar Flores mentioned that the non-English speaking community is often lacking information, and outreach to this community would be important.

Cafferata suggested the use of social media, such as Twitter, Facebook, and the Attorney General's website could be used to release information about scams and frequently occurring crimes.

Victor brought attention to the fact that businesses, not just consumers, are also victims of cybercrime.

In regards to bullet point d, the members discussed that there may be grant opportunities to help with securing government information systems against crime.

In regards to bullet point e, AG Laxalt suggested that he could use his bills to help push changes to existing civil and criminal law relating to technological crimes through the legislature. He also asked Flores if he could use one of his bills to make changes to the law.

9. Discussion for possible action on the continuance of or changes to the Technological Crimes Advisory Board Subcommittee on Privacy:

AG Laxalt brought up a discussion on whether the Subcommittee on Privacy was needed. He suggested that goals be accomplished through the main committee and that the subcommittee was not needed. Berghel stated he is the head of the subcommittee and that the members have extensive backgrounds and are experts on the subject of privacy. He believes the committee is beneficial and would like to keep it. Cobb is also on the subcommittee. AG Laxalt suggested the subcommittee make a presentation at the next meeting on the importance of keeping the subcommittee. Presentation shall be included as part of the agenda for the next meeting.

- 10. Discussion for possible action on setting the 2016 quarterly meeting schedule:**
AG Laxalt suggests setting the quarterly meeting schedule per NRS 205.050.1. Meetings shall be quarterly: March, June, September and December. The date for the upcoming March meeting will be decided soon. The upcoming agenda will focus on the five duties of the committee (as addressed in the five bullet points on the agenda item number 8 above) and include the discussion on the subcommittee on privacy and other topics the members want to discuss. AG Laxalt directed members to send any agenda items to be discussed at the next meeting to Cafferata.
- 11. Public Comment. 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:**
Letter from James R. Elste, dated December 7, 2015 submitted for public comment. (See Attachment One (1).) No further public comment.
- 12. Discussion for possible action on adjournment:**
Meeting adjourned around 10:15am.

Minutes respectfully submitted by Lacey Austin and Janice Riherd, Office of the Nevada Attorney General.

In accordance with NRS 241.020, this agenda was posted on or before December 7, 2015 online at http://ag.nv.gov/About/Administration/Tech_Crime_Meetings/ and at the following locations:

- Office of the Attorney General, 100 North Carson Street, Carson City, NV 89701
- Office of the Attorney General, 5450 Kietzke Lane, Suite 202, Reno, NV 89511
- Office of the Attorney General, Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, NV 89101
- Legislative Building, 401 N. Carson Street, Carson City, NV 89701
- Capitol Building, 101 N. Carson Street, Carson City, NV 89701

Attachment One (1)

to

Technological Crime Advisory Board Minutes

Meeting Date:

December 10, 2015

December 7, 2015

Patricia D. Cafferata, Esq.
Office of the Attorney General
100 N. Carson Street
Carson City, NV 89701

Dear Ms. Cafferata:

I am a member of the Technological Crimes Advisory Board (TCAB) Privacy Subcommittee, and I would like to request the inclusion of this letter in the public record for the next meeting of the TCAB on December 10, 2015. I am unable to attend the meeting, as I am a professor of Information Systems at the University of Nevada, Reno, and I have to deliver a final exam in computer applications. I would hate to disappoint my students, who I am confident are looking forward to the exam.

Over the course of the last eight years, I have supported the work of the TCAB in a variety of capacities. In 2007, as Chief Information Security Officer for the State of Nevada I served on the TCAB as the representative for the then Department of Information Technology (currently EITS). I had the distinct privilege of nominating Attorney General Cortez-Masto to serve as the chair of the TCAB. On multiple occasions I have presented to the TCAB, providing the board with subject-matter expertise on complex cybersecurity issues, such as Stuxnet. Finally, since its inception and over the course of the last two years I have served as a member of the TCAB Privacy Subcommittee.

I am writing the board with the intent of highlighting the accomplishments and challenges of the subcommittee, and the value of the privacy subcommittee to the TCAB.

The Technological Privacy Subcommittee was created with the unanimous approval of the board on September 5, 2013. Since then, the subcommittee, whose members include both accomplished legal and technical professionals, has met regularly and earnestly pursued the mandate of the TCAB. Over this time, we have explored a variety of issues that are widely recognized as the most pressing issues in privacy and technological crime.

The most notable result is the set of recommendations provided by the subcommittee to the TCAB in the June 5, 2014 TCAB meeting. I believe it was these recommendations, and in particular, the scope of the problems addressed that has led the board to question the value of the privacy subcommittee. In essence, "what does privacy have to do with technological crime?" or as Sen. Ford stated "I wondered the same thing, whether this was in the purview of the Technological Crime Committee."

As a subject-matter expert, I can assure you that cybersecurity, privacy and technological crime are inextricably intertwined and share a complex legal and technical environment. These are some of the most significant issues in our digital age and require thoughtful, but urgent action from policy-makers, law enforcement, industry and the citizens of Nevada. In particular, the shifting landscape of civil liberties and privacy informs, in part, a wide variety of technological crimes that involve violations of individual privacy. International, Federal, and State laws related to privacy are evolving and will dramatically influence the requirements for protecting personal information, and will directly affect the ability of law enforcement to prosecute technological crime.

The board's creation of the privacy subcommittee demonstrated both a recognition of the challenges and a desire to support the work of the TCAB by providing a group of subject-matter experts to focus on these issues. The subcommittee has three mandates: 1.) make recommendations to the Nevada Attorney General and the TCAB, 2.) monitor changes in international, Federal, and State policy and legislation regarding technological privacy protections, and 3.) serve an advisory function to the Attorney General and TCAB regarding the protection of personal privacy in Nevada.

I would like to highlight one particular accomplishment of the privacy subcommittee, as an example of the value we were able to provide during the last legislative session. In the 2015 legislative session, NRS603a, Nevada's breach disclosure law, was amended and the definition of "personal Information (PI)" was modified. This fundamental definition of what is PI is critical to understanding what does or does not constitute a security breach that requires disclosure under Nevada law. Modifying the definition of PI was discussed on multiple occasions in the privacy subcommittee.

As a result, when Assemblyman Edgar Flores approached Ira Victor, another member of the privacy subcommittee, and myself, we were well positioned to support his legislative efforts. We provided subject-matter expertise on PI, we provided examples of potential language that would effectively support his objectives for an amended definition of PI, and provided testimony in support of the bill, which was ultimately passed. With powerful constituencies arguing for extreme changes or resisting changes, we were able to provide the support and guidance necessary to achieve an acceptable compromise. Without our support, it is unlikely that effective, compromise language would have been found, and the bill would likely have failed to pass.

This is no small accomplishment. Nevada now has one of the nation's most comprehensive definition of Personal Information. Nevada remains one of the three states consistently cited as examples of good privacy laws, the others being California and Massachusetts.

While this provides an example of the extent to which the members of the committee are willing to go in support of good cybersecurity and privacy legislation, it is certainly above and beyond the literal scope of the privacy committee's mandate. However, it does highlight the potential value of a group of subject-matter experts can provide to the TCAB, Attorney General, and members of the Legislature.

This also highlights one of the key disconnects with the TCAB. While the mandate for the subcommittee does include considerations for making recommendations to the TCAB, I believe that we erred in making that the primary focus of the privacy subcommittee. While it is important to advocate for good cybersecurity and privacy legislation, I believe that it is the advisory nature of the subcommittee that is of greatest value.

To that end, I believe that we should not have provided so many recommendations to the TCAB that were so far reaching and represented positions of advocacy. For example, amending the Nevada Constitution, although noble in intent, was clearly an example of extreme advocacy.

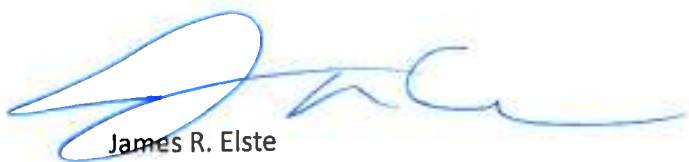
For the privacy subcommittee to provide value to the TCAB, we must focus on the advisory function and work to inform the TCAB regarding these issues, and in all respects maintain a certain objectivity in our deliberations. A focus on the advisory function will allow the TCAB to maximize the advantage of the group to subject-matter experts we have assembled, provide a synthesis of the dynamic, evolving issues in privacy, and continue to support the work of the TCAB.

It is with the upmost respect for the work of the TCAB that I urge the board to support the continuation of the privacy subcommittee. I am confident that the TCAB will benefit from the access to subject-matter expertise, and that with a refocused effort on the advisory function, the privacy committee can make a meaningful contribution to the TCAB.

We are all aware of the seriousness of cybercrime. We are also all aware of the importance of privacy in a free society. At the intersection of these two issues we will find some of the most significant, complex challenges of our age. I hope you will support the continued efforts of the privacy subcommittee and of the members of the subcommittee, who are dedicated to supporting the Technological Crimes Advisory Board.

Thank you in advance for your time and consideration.

Respectfully submitted,



James R. Elste

