

## **MEETING MINUTES**

**Organization:** Advisory Committee to Study Laws Concerning  
Sex Offender Registration

**Date:** October 18, 2013

**Meeting Location:** Legislative Counsel Bureau  
401 S. Carson Street  
Carson City, Nevada 89701  
Conference Room # 2134

**Video Teleconferenced:** Legislative Counsel Bureau  
555 E. Washington Avenue  
Las Vegas, Nevada 89101  
Conference Room # 4412

**Committee Attendees:**  
Keith Munro, Brett Kandt, Richard Carrillo, Susan Roske, Donna Coleman,  
Curtiss Kull, Senator Ruben Kihuen, Committee Legal Counsel Joe Reynolds,  
and Secretary Janice Riherd.

**Members of the Public Who Signed In As Present:**  
Jennifer Henry, Donella Rowe, Charlene Frost, Mercedes Maharis, and Pat  
Hines.

### **Agenda Item #1:**

#### **Call to Order and Roll Call:**

The meeting was called to order by Keith Munro, Assistant Attorney General and  
Committee Chair at 10:08 am. Mr. Munro asked for roll call, the above members  
of the committee were present.

### **Agenda Item #2:**

#### **Public Comment:**

Mr. Munro called for public comment. The following members of the public came  
forward and spoke:

#### **Public Comment in Carson City:**

##### **Pat Hines:**

Ms. Hines confirmed the name of the committee meeting today was Advisory  
Committee to Study Laws Concerning Sex Offender Registration. Ms. Hines  
referred to Item #6 in the agenda which lists SORNA as Sex Offender  
Registration and Notification Act. Ms. Hines stated she was confused because  
Nevada did not include Notification in their title.

Response by Keith Munro:

Mr. Munro explained that this committee is a statutory committee, and the committee was named by the Nevada Legislature. SORNA is a federal law. Therefore, one is a federal law, and the other is a state law.

Pat Hines:

Ms. Hines asked which law Nevada was “going by”.

Response by Keith Munro:

Nevada is going by AB579 which was passed in the 2007 Legislature. AB579 is to bring Nevada into compliance with the federal law.

Pat Hines:

Ms. Hines asked if “notification” was included, it was her understanding that Nevada was only using “registration”.

Response by Keith Munro:

Mr. Munro recommended getting a copy of the current law (NRS Chapter 179) and AB579, that notification is an aspect of both.

Pat Hines:

Ms. Hines stated that she read the minutes from the November 14, 2012 meeting, those minutes were very informative and educational.

Mr. Munro called for additional public comment, none was given.

**Agenda Item #3:**

**Approve November 14, 2012 Meeting Minutes:**

The minutes of the November 14, 2012 meeting were reviewed; Brett Kandt made a motion to approve the minutes, Curtis Kull and Susan Roske seconded the motion. Keith Munro called for any suggested additions or corrections, none were voiced. All committee members present were in favor of the motion. The motion was carried and the minutes of the November 14, 2012 meeting were approved.

**Agenda Item #4 and #5 were combined:**

**Discussion of ruling in State v. The Eighth Judicial District Court., 129 Nev. \_\_\_\_ (Adv. Op. 52, July 25, 2013), upholding AB579 over constitutional challenges:**

and

**Presentation by Honorable Judge William O. Voy, Eighth Judicial District Court, on possible amendments to Nevada’s sex offender registration laws regarding juvenile offenders:**

Judge Voy stated that the Adam Walsh legislation and legislation in general surrounding sexual offender registry and notification provisions is a policy

decision made by the executive and legislative branches of the government. Judge Voy informed the committee that his comments would be focused on his experiences as a Juvenile Court Judge in Clark County Nevada for the last ten (10) years. Additionally, his opinions and concerns pertain to the registration and community notification of juvenile sex offenders, not adult sex offenders. Judge Voy stated that there is a big difference in many respects between juvenile and adult sex offenders. The overwhelming majority of juvenile sex offenders do not offend because they have deviant sexual thought. They offend for a variety of different issues, for example, major mental health issues, their own sexual victimization when they were younger, hormones, instability in the family, and the fact that they are juveniles. Judge Voy stated that the purpose and reasoning behind a registry and tracking sex offenders relates to recidivism and to prevent further criminal conduct. There are a host of juvenile recidivism studies, most reporting a low range from two percent (2%) to eight percent (8%) recidivism rate. Juvenile sex offenders are different from adult sex offenders. The treatment provided by the system for juvenile sex offenders is very effective, recidivism studies show this effectiveness.

Judge Voy stated for the committee's edification that they were in the process of conducting their own recidivism and risk assessment study using one thousand (1,000) prior Clark County juvenile sex offender cases. The study is compiling data for long periods of time, and will not end when the juvenile reaches age eighteen (18) or age twenty-one (21). For example, one of the juveniles they are studying first offended in 1979. Judge Voy intends to present the results of this study to the Nevada Legislature next session.

Judge Voy continued by stating that the mandatory, arbitrary, designation in the Adam Walsh Act that was adopted by the Nevada Legislature designates age thirteen (13) as the age in which automatic registration and notification would occur. This creates problems and concerns in the juvenile justice system. For example, an eleven (11) year old offender under Judge Voy's jurisdiction, because of the juvenile's high risk to re-offend, remains under his jurisdiction as long as possible, or until the juvenile is age twenty-one (21). Because this juvenile offended prior to his fourteenth birthday, even though high risk, the juvenile drops off and does not qualify to be registered. Judge Voy reported that the vast majority of the juveniles under his jurisdiction complete treatment successfully and do not re-offend as juveniles. For those that work in this field and specialize with this population of offenders, for example, the DA's, the public defenders, and the probation officers; their assumptions will be proven accurate, just like the previous studies conducted. Judge Voy implores this committee to make a recommendation regarding juveniles at the next Nevada Legislative Session.

Additionally, Judge Voy wanted to point out something that was troubling to him. There are juvenile statutes that allows for and mandates the sealing of juvenile records at age twenty-one (21), or earlier under certain circumstances. The vast

array of these records are sealed. There is nothing in the Adam Walsh Legislation that allows the court to “unseal” at the request of someone, for example the Attorney General’s Office or the District Attorney’s Office, to address the issue of registration and notification. The intent of the retroactivity is thwarted. When the Adam Walsh Act was being discussed and enacted in the Legislature, none of these issues were brought up to any great extent.

Judge Voy suggests that this committee look strongly at the wording and comments in Logan, which the Supreme Court announced recently. In talking with colleagues, DA’s, public defenders, etc.; no one has seen such strongly worded opinion both in the descent, and in the majority, suggesting that this law needs to be examined from a policy standpoint. (See, Attachment One (1)).

Question from Keith Munro:

Mr. Munro asked Judge Voy if he thought the mandatory registration age for juvenile offenders should be lowered, or perhaps give judicial discretion to make a determination of whether registration should begin.

Response from Judge Voy:

Judge Voy stated that he believes what was set forth in AB326, is a fair compromise and does allow for that discretion. The statutory scheme that was in existence prior to Adam Walsh allowed that discretion. As a Judge, he takes this discretion seriously. The hearings they used to have to make the decision were highly contested, very lengthy, and detailed analysis provided by both the Public Defender’s Office and the District Attorney’s Office of whether the offender should register or not, and if they pose a future threat to recidivate. Judge Voy stated that by giving discretion it allows this to happen. It is difficult for the juvenile offenders, after successfully completing the programing and therapy provided and demonstrated they have overcome the issues that caused them to offend, becoming straddled with the stigma of years of registration.

Question from Keith Munro:

Mr. Munro asked Judge Voy his opinion which was more of the stigma, the registration or the community notification.

Response from Judge Voy:

The prior statutory scheme automatically called for both community and school notification in the juvenile system for what would otherwise be considered a felony in the adult system. Notification would go to the local school district and local law enforcement would also keep a record. It would not be published on the internet. Judge Voy stated that this system seemed to work nicely.

Question from Keith Munro:

Mr. Munro asked Judge Voy if he thought some juveniles should be subject to community notification via the internet.

Response from Judge Voy:

Judge Voy stated that is why they previously had the hearings, to make that determination. Historically he has ordered community notification via the internet for a juvenile offender. He personally has not kept track of the numbers of those juveniles ordered for community notification vs. those who were not ordered.

Question from Assemblyman Richard Carrillo:

Mr. Carrillo asked Judge Voy what type of programs the Court provides for juvenile sex offenders.

Response from Judge Voy:

Judge Voy stated that mandated by statute, at least three (3) years of supervision for juvenile felony type offenses. Even with a gross misdemeanor they usually hold them to three (3) years of supervision. The average supervision time for the average case is six (6) months. A hearing is held at the end of the period of supervision to determine whether or not to continue supervision. Supervision of a juvenile is not released until a professional in this area has analyzed and provided treatment to the juvenile; and has provided the Court with a discharge summary stating the juvenile is at a low risk to re-offend. An array of services is provided from outpatient treatment to inpatient treatment. There are specialized group homes that provide the juveniles with additional supervision and treatment. There is an intensive supervision unit within Clark County that exercises supervision at a much higher level than the average juvenile on probation. Services are also provided for treatment of emotional issues and drug issues.

Question from Assemblyman Richard Carrillo:

Mr. Carrillo asked Judge Voy if the treatment providers were using evidence based treatments.

Response from Judge Voy:

Judge Voy stated that they insist upon evidence based treatment in all cases. Occasionally a private attorney will request to use a private therapist that is not certified to provide this level of treatment pursuant to the national model recognized by professionals in the industry. They only use those individuals who employ the best practices and treatment that have been proven to be successful.

Question from Donna Colman:

Ms. Colman asked Judge Voy who was conducting their study.

Response from Judge Voy:

Judge Voy stated that it was in conjunction with the Court and Dr. Paglini, who is an expert in both the area of juvenile and adult sex offenders. The study is analyzing not only recidivism rates, but also twenty-eight (28) sets of variables. If the juvenile did re-offend, what was the profile at the time of Court supervision.

This study will aid the practitioners in the field to be better prognosticators of determining risk in the future. The study did not begin until approval from the last Legislative session, SB31, which allowed them to re-open sealed cases to obtain the information necessary to provide to Dr. Paglini and his staff. Additionally, local records and state records are being checked for any recidivism records. Judge Voy is working with the FBI to run their results through NCIC. Results from NCIC will be compared with the appropriate state and local jurisdiction and obtain the records to determine what happened in that jurisdiction to correlate with the other data.

Question from Donna Colman:

Ms. Colman asked Judge Voy was a therapist or from UNLV.

Response from Judge Voy:

Judge Voy stated that Dr. Paglini is in private practice, a Board Certified Forensic Physiologist who has worked in this field for over twenty (20) years.

Question from Donna Colman:

Ms. Colman asked Judge Voy when the study would be completed for public view.

Response from Judge Voy:

Judge Voy stated completion would probably be close to the next Nevada Legislative session.

Question from Keith Munro:

Mr. Munro asked Judge Voy to spell the name of Dr. Paglini for the record.

Response from Susan Roske:

Ms. Roske confirmed the spelling as PAGLINI.

Mr. Munro called for additional questions for Judge Voy, none were asked.

**Agenda Item #6:**

**Discussion of letter to Governor Sandoval from Dawn Doran, Acting Director of the U.S. Department of Justice, Office of Justice Programs, regarding Nevada's continued implementation of SORNA:**

Mr. Munro confirmed that each of the committee members received a copy of the letter in their packet with the Agenda. Mr. Munro stated that this was a letter resulting from communications of the Nevada Department of Public Safety with the U.S. Department of Justice to confirm that Nevada is still compliant with the Adam Walsh requirements. This letter indicates that Nevada remains compliant. As this committee continues to study issues, Nevada will remain in compliance with the Justice Department to keep Nevada's certification. (See, Attachment Two (2)).

Mr. Munro called any questions regarding this letter, none were asked.

**Susan Roske asked that we return to Agenda Item #4:**

Ms. Roske wanted to advise the committee that she will seeking a Petition for Writ of Certiorari to the U.S. Supreme Court, and there may be further litigation involving this legislation.

Question from Keith Munro:

Mr. Munro asked Ms. Roske what she expected her briefing schedule to be, and when she might expect a decision in this matter from the Supreme Court.

Response from Susan Roske:

Ms. Roske stated that they would first wait hear if the U.S. Supreme Court would agree to review the matter, and then await a briefing schedule from the Court.

Question from Keith Munro:

Mr. Munro asked if a Stay from the Nevada Supreme Court was still in effect, or if the Stay had been lifted. If the Stay has been lifted does she anticipate asking for a continued Stay before the Supreme Court.

Response from Susan Roske:

Ms. Roske stated that the Stay has been lifted by the Nevada Supreme Court, and yes, she will be asking for a continued Stay.

Question from Donna Colman:

Ms. Colman asked Mr. Munro that since the Stay has been lifted, when is the anticipated roll out of the registry.

Response from Keith Munro:

Mr. Munro stated that he doesn't believe the Remittitur has been issued by the Nevada Supreme Court. The Department of Public Safety was not in attendance, but they are moving very quickly to get the registry up and going.

**Agenda item #7:**

**Public Comment:**

Mr. Munro called for public comment from Las Vegas, none was given.

Mr. Munro called for public comment from Carson City, the following member of the public came forward and spoke:

Pat Hines:

Ms. Hines stated that her public comment was as age-old as the AWA. She has asked for help from many people in this State, and today is a good example of what is being done, or going to be done for adult sex offenders. Ms. Hines stated that every time she comes to something, or get involved in comments, the adult

sex offenders are put by the wayside. She asked that consideration start being given to adult sex offenders. They are human beings in more ways than many juveniles. They have done all the requirements asked of them to get released and be a citizen again. She wished that everyone hearing this to please keep that in mind.

Mr. Munro called for additional public comment, none was given. The meeting was adjourned by Keith Munro at 10:41am.

*Minutes respectfully submitted by Jan Riherd.*

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