

**STATE OF NEVADA
NEVADA COUNCIL FOR THE PREVENTION
OF DOMESTIC VIOLENCE
CRIMINAL JUSTICE COMMITTEE**

Minutes of Meeting

Wednesday, May 9, 2012, at 1:00 p.m.

Office of the Attorney General
5420 Kietzke Lane, Suite 202,
Reno, Nevada 89511

Committee Members Present

Brett Kandt
Kareen Prentice

Committee Members Present Via Teleconference

Barbara Aupperle
Eileen Herrington
Suzanne Ramos
Robin Sweet
Elynne Wernikove-Greene
Bob Zentz

Committee Members Absent

Traci Dory
Dr. Michael Freda

Public Present

None

Attorney General's Office Staff Present

Lorraine Webber, Assistant to the NCPDV
Karen Cruz, Assistant to NCPDV

1. Call to order and roll call of members.

Brett Kandt called the meeting to order at 1:00 p.m. Roll call was taken and quorum was established.

2. Public Comment.

Mr. Kandt let everybody know that we have a new assistant, Karen Cruz, who is present. Ms. Webber was also present to assist Karen for her first meeting.

3. Approval of minutes from the February 1, 2012 meeting.

Barbara Aupperle made a motion to approve the February 1, 2012 minutes as submitted. Eileen Herrington seconded the motion. A vote was taken and the motion passed unanimously.

4. Discussion, recommendations and possible action regarding *Perspectives on Domestic Violence* curricula for prosecutors, law enforcement and victim advocates.

Mr. Kandt stated that the video that was produced using the curricula created by Bob Zentz for use in training prosecutors was utilized at the prosecutor's conference. In addition, Mr. Kandt provided the video to the training arm of the AOC and to POST. He informed the members that POST revised the curricula to include the video for use with training law enforcement officers and created an online "e-learning" format for use with online training.

Mr. Kandt discussed that when the video was made he promised the victims and offenders that the video would not be disseminated to the public at large. When POST put the video online, they offered the option of making the video available through the e-learning system to anybody. Mr. Kandt informed POST that they could only offer it to law enforcement officers to be utilized for training because of his promise to the victims and offenders.

5. Discussion, recommendations and possible action regarding domestic violence and sexual assault multidisciplinary training opportunities.

Elyne Wernikove-Greene discussed a proposed one-day workshop to be held in October 2012 that will be set up as a three-part training to include a presentation by Retired Lieutenant Mike Agnew on best practices for investigating domestic violence for the first session; a presentation by a local Nevada prosecutor representing Clark County discussing what is needed to put on a case without victims and best practices for same for the second session; and, for the third session, a national speaker to talk about best practice models and recommendations for victim services working both in the community and with law enforcement and prosecutors. She wants to include in the third session a culmination of the work of the ad hoc committee where recommendations for best practices can be made and where the committee can possibly present a position paper.

Mr. Kandt stated he wants to work the video into the workshop as well and wants to limit the workshop to domestic violence. Ms. Greene agreed and suggested that the video be brought in during the morning session of the workshop. During afternoon session, she wants to bring in a victim who has already been through the entire system and can talk about what worked and didn't work in order to give the participants feedback about the victim's experience.

Mr. Kandt stated that a lot of people have been going to the recent VINE trainings and believes the trainings have been going really well. Ms. Greene reported that the VINE trainings have gone really well, a lot of people have attended and they were at the CCVR. Ms. Greene agreed that the whole project was very well received and went well. Kareen said the VINE trainings will be in Nye, Esmeralda, Mineral and Mesquite Counties in the second week of June.

Ms. Greene reported that it is very tentative, but they are looking to open a Family Justice Center in Clark County some time this summer. Gail and Casey will be coming back to help do some hands-on technical assistance once they have set up some of the frame work. Ms. Greene is asking the City Council if they will give them some space in the City Hall to begin with so they won't need to ask for money for a location for a project that hasn't yet gotten off the ground. She feels the City Hall location is good because it is accessible for transportation and has good security. She said they can ask for money for structure once the center has gotten off the ground.

6. Discussion, recommendations and possible action regarding new or existing domestic violence professional best practices or protocols.

i. Discussion, recommendations and possible action regarding Nevada Model Domestic Violence Protocol for Law Enforcement.

Nothing to report.

ii. Discussion, recommendations and possible action regarding Nevada Domestic Violence Prosecution Best Practices.

Nothing to report.

iii. Discussion, recommendations and possible action regarding creation of Victim Advocate Best Practices.

Ms. Greene said that Lori Fralick, Suzanne Ramos and Barbara Aupperle have agreed to be on the Victim Advocate Best Practices Ad Hoc subcommittee. Ms. Greene has handouts to distribute and was instructed to send them to both Ms. Cruz and Ms. Webber for distribution to the subcommittee members. Ms. Greene is setting up the first meeting and stated she has a little bit of funding so the group can meet together both in Las Vegas and Reno. Mr. Kandt told Ms. Greene that he can possibly use some of his stop grant money if the group needs additional funding to make the meetings happen.

7. Report and possible action regarding Committee goals for the upcoming year.

i. Nevada Coalition Against Sexual Violence Statewide Prevention/ Intervention Conference—Criminal Justice Track.

Mr. Kandt has not had any communication from the Coalition for months regarding the conference and feels that the conference is probably not going to happen due to the Coalition's status.

ii. Review Nevada Department of Public Safety Domestic Violence Reporting (http://www.nvrepository.state.nv.us/dv_reports.shtml).

Mr. Kandt said the group talked about getting better statistics and the fact that DPS no longer puts out monthly statistics on domestic violence. Instead the numbers appear in the annual UCR report but are not compiled in that report.

Mr. Kandt said that Robin Sweet pointed out that there is domestic violence data compiled in the annual report of the Nevada Judiciary which was sent out to Committee Members by Ms. Webber. The compilation of domestic violence cases are shown in the report on page 5, table A2-2 (District Court felony domestic violence), page 21, table A6-2 (Justice Court felony cases), on page 35, table A6-2 (Justice Court misdemeanor cases) and on page 48, table A8-2, (Municipal Court misdemeanor cases). These are all of the domestic violence cases that are part of courts' case loads that can be followed to get a better feel in the case of numbers, but only tracks the number of cases that are filed. The UCR report, however, shows the numbers of all instances when law enforcement responds to a call, whether or not it results in an arrest or a filing of criminal charges. In the future, the numbers can be compared annually to get some sort of a feel of what is out there in terms of numbers. Mr. Kandt suggested, and Ms. Prentice agreed, that the Prevention Council might want to summarize these numbers and mention them in the Annual Report to the Legislature.

Ms. Sweet clarified information relating to the numbers shown in the report by explaining that on page 5 of the "District Court, Felony" chart, the first column is "Crimes Against Persons, Felony" and the second column is "Domestic Violence, Felony." In that second column, on the first line, it shows 136 new filings. On the third line, it shows 227 charges. That does not necessarily mean that there are 227 charges on those 136 cases. It could be that, if there is a crime against a person, then it would be counted in the first column, and, if the DA added a charge of domestic violence, then that new charge would not only show as a new case in the first column ("Crimes Against Persons") but would also be counted under "charges" in the second column ("Domestic Violence").

Ms. Sweet pointed out that when Ms. Prentice and others are comparing these numbers against the UCR, they should also compare the charges because it would be a closer comparison. Mr. Kandt stated if the Committee members summarize these numbers in any report that it will have to be careful not to unintentionally misstate the information.

Ms. Sweet clarified to Suzanne Ramos that Washoe County's report only shows felony crimes against persons and crimes against property because the County could not break out the domestic violence numbers. Mr. Kandt asked if that is because of the issues that Washoe County seems to be having with the offense codes. Ms. Sweet said that is possible for part of the delay in the DA's reporting and that it is a county-wide issue that the court is waiting to be resolved. However, the court has decided to move forward. She stated that there is still a hope that the domestic violence numbers will be broken out for FY12.

Ms. Prentice stated that the draft report could be sent to Ms. Sweet for her review prior to being sent to all Prevention Council members. Ms. Sweet offered to provide contact information of the staff members who put the report together to Ms. Prentice.

Referring back to the Judiciary chart, there was some discussion brought up by Ms. Ramos on what "reopened" means. Mr. Kandt referred Ms. Ramos to the glossary of terms used in the report shown on page 52 and to the explanation of what non-trial dispositions in the District and Municipal courts would be on page 54.

iii. Review of new or existing domestic violence best practice protocols.

Except to mention that the effort to develop the Victim Advocate best practices is part of the Committee goals, there were no other comments on this topic.

8. Discussion regarding State Bar Ethics Op. 23.

Mr. Kandt said he stumbled across this opinion while looking at another ethics opinion issued by the State Bar Standing Committee on Ethics and Professional Responsibility that impacted prosecutors. He explained that this 1995 opinion discusses the fact that it is an ethical violation of the Rules of Professional Conduct governing practice by Nevada attorneys for criminal defense attorneys to urge a domestic battery victim to avoid service of a subpoena, to refrain from testifying against his client, or to not cooperate with the prosecuting attorney.

Mr. Kandt stated it is his understanding that this is a problem all the time and wanted to bring this to the Committee Members' attention for discussion as necessary for

referral to respective agencies and for consideration for future trainings. Ms. Prentice asked Ms. Cruz and Ms. Webber to send this opinion to all Council members. Mr. Kandt further stated that the citations referred to in the opinion have changed, however, the substance of the ethics opinion has not changed and he thinks this opinion is important and should have been brought to everybody's attention. Mr. Zentz offered that there are defense attorneys that will assert the 5th Amendment right or will submit affidavits on behalf of the victim. He also stated that he has forwarded the opinion to all of his department's deputies. Mr. Kandt stated he wants to make sure the opinion is disseminated and that everybody is aware of it.

Ms. Prentice asked what she should do if a victim tells her this has occurred. Mr. Kandt responded that she should make the prosecuting attorney aware of the issue and that the prosecuting attorney should then raise the issue with the defense attorneys involved, informing them that, per this opinion, they are committing an ethical violation. He further stated that a complaint should be filed with the state bar by the victim or the prosecuting attorney.

Ms. Aupperle asked if the victim had to be cooperative in order to file a complaint with the state bar, to which Mr. Kandt said he is not sure of the answer when the complaint is filed, but they must be cooperative when the state bar investigates. Ms. Aupperle said she now hides her victims when the defense attorney is going to be present because it has gotten so bad.

Mr. Kandt offered that this issue should be the subject of a CLE put on by the Washoe and Clark County Bar Associations in order to get this information out to defense attorneys. He stated that it is easier to raise this issue with public defenders because the issue can be discussed with the heads of those departments, but is concerned that other attorneys aren't aware of the opinion. He asked the Committee members if the problem is with the private sector attorneys or public defenders. Both Ms. Herrington and Ms. Aupperle said that it occurs in both sectors.

Ms. Herrington stated that there is another angle she has observed relating to this issue in Storey County which is that, when they have a victim in the criminal case and there is a divorce going on where civil attorneys are involved, she has seen the civil attorneys use this as a bargaining chip in divorce case. Ms. Greene stated she has also seen it in the family courts relating to protection orders, where the attorneys approach the victims and start negotiating in terms of the criminal case that hasn't yet been heard in court.

Mr. Kandt suggested this topic also be brought up with the Family Law Section of the State Bar. He said he can work with that section to ensure that there is some discussion of this during their annual conference in Ely.

Mr. Kandt will pursue this subject with other departments and report back as he believes this is clearly an issue that needs to be brought up to remind everybody that there are ethical limitations on what attorneys can do with regards to the victims.

9. Schedule future meetings & agenda items.

The next meeting was scheduled for August 29, 2012 at 1:00 p.m.

10. Public comment.

There was no public comment

11. Adjournment.

Suzanne Ramos made a motion to adjourn the meeting. Eileen Herrington seconded the motion. The meeting was adjourned at 1:34 p.m.