

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

MINUTES OF MEETING

July 1, 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 2:00 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 Trammatologist
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
Susan Meuschke, Ex. Director, Nevada Network Against Domestic Violence

Members Absent

Howard Skolnik, Former Director, Nevada Department of Corrections.
Elisabeth MacDowell, Directory of Family Justice Clinic, Boyd School of Law

Others Present

Henna Rasul, Senior Deputy Attorney General, Office of the Attorney General
Heather Cooney, Legal Secretary, Office of the Attorney General
Elizabeth Greb, Grants and Project Analyst III, Office of the Attorney General
Heather Proctor, Senior Deputy Attorney General, Office of the Attorney General
Jennifer Chisel, Deputy Attorney General, Office of the Attorney General
Major Kimberly Madris, Deputy Chief, Department of Public Safety, Parole and Probation

Kareen Prentice, Domestic Violence Ombudsman, Office of the Attorney General

2. Comments from the public

No public comment

3. Approval of April 14, 2014 minutes.

Judge Stiglich made a motion to approve the minutes. Colleen McCarty seconded the motion. The motion passed unanimously

4. Announcement of new member, Elynne Greene, Victim Advocate, LVMPD. Chair Masto

Chairperson Masto announced an increase in the size of the membership and Elynne Green has been added.

5. Update on BDRs to be presented to the 2015 Legislature regarding victims of crime. Attorney General Staff

Chairperson Masto advised that the BDRs that are not part of her package will be voted on by the sub-committee to recommend whether they should go to the Advisory Commission on the Administration of Justice for possible inclusion in their bill package.

A. Consider and take possible action on a bill draft request that would allow the Department of Corrections to provide victim information to the Office of the Nevada Attorney General for the limited purpose of allowing the Attorney General's office to notify victim registrants of the status of pending litigation. Heather Proctor, Sr. Deputy Attorney General.

Heather Proctor stated that the Attorney General's Office is starting to provide some feedback to victim registrants in death penalty cases as the offender goes through the appellate process. Currently the Attorney General's Office cannot contact the registrants directly as that information is confidential. Notification must go through the Department of Corrections. This bill would allow NDOC, upon the registrant's request, to share their contact information with the Office of the Attorney General so that we can contact them directly.

Judge Stiglich asked if this service would also be available at the District Court level. Ms. Proctor responded that it would only be at the federal level. At the District Court level it would depend on the District Attorney's victim advocate and how they contact their victims. Kareen Prentice stated that notification does occur in Washoe and Clark counties but probably not in the rurals.

Chairperson Masto stated they would follow up on this issue with victims advocate at the Department of Corrections to see how they could insure that the rurals and similarly situated law enforcement offices can also provide notification.

B. Consider and take possible action on a bill draft request that would permit the reimbursement of counties for the cost of sexual assault examinations by the Victims of Crime fund. Liz Greb, Grants/Project Analyst III.

Elizabeth Greb stated the Violence Against Women Act prohibits charging a victim directly for the cost of a forensic exam and requests jurisdictions to allow victims to get a forensic exam without having to cooperate with law enforcement and prosecution. Largely because of economic reasons, it has been difficult to ensure that victims in rural counties get access to forensic exams both because there are limited providers and also because the victim usually needs to come into Washoe County or Clark County there is some confusion about who pays.

Ms. Greb further explained that the counties, according to NRS, are required to pay for the exam but frequently do not allocate money in their budget. We are suggesting that funding be appropriated for this cause and all counties should have an equal opportunity to access the Victims of Crime funding for up to ten (10) forensic exams or \$10,000, whichever is greater.

Judge Stiglich asked if money can be recouped from offenders if they are convicted. Kelly Ann Kossow responded that this is already being done and \$950 should be being asked for in the presentence investigation report.

Chairperson Masto stated that the sub-committee had looked at Victims of Crime paying for all of the forensic exams but the tremendous cost coming out of Clark County was prohibitive. She added they also looked into limiting funding to the rural communities that really needed the assistance but that would not be fair to Washoe and Clark. This BDR is an attempt to allow all counties to use the fund to some extent. It will definitely cover all the expenses for the rurals and will also make a contribution to both Washoe and Clark.

C. Consider and take possible action on a bill draft request that relieves the victim of a criminal act from having to renew the judgment for restitution if the full amount of restitution had not been satisfied. Jennifer Chisel, Deputy Attorney General.

Jennifer Chisel stated in representing the Controller's office which is responsible for collecting debts owed to the State she has been working with the Controller's office on renewing judgments and the statute of limitations on debt. Some of the debts include criminal debts that have a restitution component. When an offender is discharged from supervision by Parole and Probation any unpaid restitution becomes a civil liability and the judgment does need to be renewed, would expire and a statute of limitations does attach. An Arizona statute addresses this issue and states that any unpaid restitution does not need to be renewed and does not expire until it is paid in full. That is what this bill draft request is.

D. Consider and take possible action on a bill draft request that would make technical corrections to Assembly Bill 311 of the 2013 session of the Nevada Legislature, which created the Account for Victims of Human Trafficking. Gina Session, Chief Deputy Attorney General.

Item Number D has been withdrawn.

E. Consider and take possible action on a bill draft request that would expand the application of Assembly Bill 40 of the 2013 session of the Nevada Legislature, which authorizes the State Board of Parole Commissioners to notify victims of crime of certain information through the use of an automated victim notification system. Brett Kandt, Ex. Director, Nevada Prosecuting Attorneys Council.

This matter was taken out of order.

Chairperson Masto asked for any additional feedback on the three BDRs that had been presented.

Colleen McCarty moved for the committee to support BDRs A, B and C with the caveat that the committee look into the issue of the District Courts being included in A. Judge Stiglich seconded the motion. The motion was approved unanimously.

E. Taken out of order

6. Nevada Dept. of Public Safety, Parole and Probation Division, regarding collection of fines, fees and restitution. Captain Dwight Gover, Nevada Dept. of Public Safety.

Major Kim Madris stated that Captain Gover was not able to attend. She explained that the supervising officer, at the time of intake, will have the offender sign a document outlining what fees and fines they owe and are directed to pay the County Clerk's office. Some judges collect the fees in court at the time of sentencing. Six months prior to discharge the Division verifies that the fees have been paid. If they have not been paid it is noted on the discharge but the Division does not collect those fees directly.

Chairperson Masto stated the committee was interested in the tracking and the numbers and asked how the Division kept an accounting of fees and restitution owed and paid.

Major Madris stated that the restitution would be collected by the assigned officer but fees and assessments would be a county function. She explained the Otis system tracks on a monthly basis whether or not an individual offender has paid his restitution and if he is in arrears on an individual case basis. In order to have cumulative numbers the Division would have to track each court under each judge as the fees vary by jurisdiction and by judge.

Chairperson Masto asked Major Madris to confirm that the Division could not determine on an annual basis how much restitution had come into the State. Major Madris confirmed that they could not.

Chairperson Masto then asked how we know what is going uncollected.

Major Madris explained that at the end of supervision several judges order civil confessions of judgment to be signed by the offender. This civil confession is then sent to the victim so they can pursue the case civilly. The District Court that is receiving the discharge request will receive the dishonorable discharge and notice that the restitution has not been paid. Walk in violation reports can be required. Major Madris will look into whether any yearly numbers of restitution, fees and costs are available and forward any information to Linda Fitzgerald for distribution.

Chairperson Masto commented that although fines and fees are collected by the county some of this money goes to the State.

Major Madris stated that Division tracks fees such as the administrative assessment fees, the drug and alcohol test fees, DNA analysis fees, domestic violence fees and indigent attorney defense fees but does not track the collection of these fees

Judge Stiglich stated that the presentence process does not allow enough time to determine if there is restitution but the court requires a restitution amount to be determined before it can issue the judgment of conviction. She added it would be helpful if the court could retain jurisdiction over this issue so that they could pursue restitution later.

Ms. Kossow stated that it is case law that the Judgment of Conviction has to be finalized and restitution has to be determined at the time of sentencing. Problems with determining restitution include victims who are unwilling to cooperate and Parole and Probation being overloaded. The Washoe County District Attorney's Office sends letters to every victim and asks them to include restitution and goes through Victims of Crime to see that they are reimbursed.

Judge Stiglich stated that the Division collects if the offender is on release and under supervision and any money received is applied to restitution before it is applied to fees and assessments.

Major Madris added that the offender can be taken back to court if they are in arrears on their restitution and/or if the offender is on parole the Parole Board can be utilized. She reiterated that they do not collect the data regarding payments of fees and assessments that are collected by the county.

7. Update on the 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.

Chairperson Masto informed the committee that Rebecca Salazar was not able to attend the meeting but had provided a handout to the members that compared Nevada and Connecticut with regard to the VOC program and survivor benefits. Chairperson Masto stated that it was up to the committee whether they wished to broaden the definition of dependent for the purposes of receiving compensation under the Victims of Crime Compensation Fund, limit it or keep it the same. Connecticut defines dependent broadly and any child of a deceased victim is considered a dependent. In the instant case the child was adopted, her biological father was killed and the adoptive mother filed a claim for compensation on behalf of her daughter. There was no indication that the biological father provided any financial support to the daughter. Nevada defines dependent as a child who is fully or partially dependent on the income of the deceased.

Judge Stiglich commented that she was not in favor of broadening the definition of dependent as it would severely tax the fund.

Sue Meuschke asked if a child who was entitled to court ordered child support, although the child support had never been paid, would then not be entitled to compensation as the parent had never actually provided support.

Chairperson Masto stated that the child would be entitled as the parent was required to pay support and child was dependent whether they were receiving any support or not and added that she was in agreement that broadening the definition would overly tax the fund.

Lisa Morris Hibbler agreed.

No motion was made to change the language.

8. Update on AB 196 – status of State of Nevada Controller Office’s collection implementation efforts. Nevada State Controller’s office.

Deb Cook, Chief Deputy Controller made the following presentation:

AB 196 gave the State Controller authority to act as a collection agent for governmental agencies which would include counties and courts. The Controller’s Office has not been able to pursue these efforts due to a lack of tools and resources to move forward as the office currently utilizes a manual system with spread sheets.

In addition we lost the Assistant Controller position during the 2011 session due to budget cuts. That position was over the debt collection efforts. There were also other vacancies in the debt collection section. We acquired the Assistant Controller position back during the 2013 session and filled that position last October. We have filled the vacancies in our debt collection section and are currently working on a new debt collection system. We believe we have a good system that we’re looking at and we are in the process of acquiring and implementing that system. It will give us a data base to help manage accounts and new tools to pursue the collection of the debts. We are hoping to implement this system by the beginning of the year.

Sue Meuschke asked if it was correct that there was no connection between an order for restitution, fines or fees and any system of accounting and how the Controller’s office was going to connect with this unconnected system.

Ms. Cook stated that currently the Controller’s Office collects debt for Parole and Probation and the new system will be able to take on more debt but the agency will have to be able to provide the information needed to collect that debt.

Ms. Meuschke asked if there had been any conversation with all the other agency systems in terms of how to connect and commented that it is a real problem that these systems cannot talk to each other.

Ms. Cook stated that there has not yet been any conversation and added that the Controller’s Office is tasked with pursuing the State Agencies but the Courts and Counties will have to reach out to the Controller’s Office. She added that the new system is a canned package off the shelf they were not able to talk to the agencies about what their needs were. She further stated that they will have to accept what the system offers but it is a robust system with a module that will attach to the State’s Accounting System. The information can come to us from the agencies manually, through spreadsheets, or through system interfaces.

Chairperson Masto commented that it has been a challenge and a frustration as we know there is money there to be collected for the benefit of the state and counties and also for the victims. The fines, fees and restitution are assessed in the courtroom. There is a reporting and collection process at the court level which then goes to the county treasurers. The county treasurers,

depending on what the statute says with regard to fines and fees and how they are split, some goes into the county general fund and some comes to the State. The State is relying on the counties, the courtrooms and the individual judges or court administrators to look at how the money is coming in and if it is being collected or not.

_____ asked if anyone has looked into privatizing collections.

Ms. Cook responded that the Controller's Office has current contracts with collection agencies for state debt.

_____ asked if anyone has considered a collection strategy whereby victims could opt in or out whereby there would be some incentive for the collection agency to collect the money and perhaps an incentive for the states and the counties to create and provide the information necessary to make the collections.

Ms. Cook added that this new system, if approved, is going to provide tools that were not in place before and will be able to access financial information for these debtors and possibly access bank accounts. The Controller's Office is currently pursuing the TOPS program, which is a federal Treasury Offset Program which allows us to tap into tax returns. SB 21 allows us to tap into the renewal of professional licenses and get our money before licenses are renewed. This system is going to be basically at the state level but once it's up and going there is the possibility for options for counties and courts.

Chairperson Masto asked if there was anything in AB 196 that gives the counties incentive to gather and provide the information to you to help with collection.

Ms. Cook responded that if the Controller's Office is contracted as the collection agency there are certain remedies in place that allow for exemptions so the money goes back to the recipients but there is really no incentive in the bill itself.

Chairperson Masto asked if the Administrative Offices of the Supreme Court keeps an accounting of the assessments. Kareen Prentice stated that with regard to domestic violence assessments, the courts keep an accounting and submits that to the Administrative Offices of the Court who then forwards a list to us of what they have received monthly.

Judge Stiglich added that a lot of fees are lost in the plea bargain process because its charge based instead of victim focused and explained a domestic violence case is a \$35 fee, if it's battery by strangulation it's not. She suggested perhaps a bill that would change it to being victim focused would be helpful. Judge Stiglich also stated the court loses its leverage to collect once the offender is no longer under supervision unless they come in front of the court again for some type of malfeasance and proposed that an offender not be discharged if they still owe fines, fees or restitution. Parties that are truly indigent can have a hearing and there are findings made.

Ms. Kossow stated that the first step needs to be an accounting because although the county tracks it, the numbers are not getting back to the judges. Judge Stiglich added that there is a screen for the judge to view what an offender owes and what is paid but there is no mechanism to know if they haven't paid unless they come back to court.

Lisa Morris Hibbler suggested contacting those that are involved in the collection process to send us reports so that we can determine if there is a problem with collection or not.

Chairperson Masto recommended a conference call with Justice Hardisty to see what is being done on the court side to track payment of fees and assessments and a subsequent report to the committee to help identify a solution to this accounting issue.

9. Attorney General – Domestic Violence Fatality Review Statewide Team 2013 Report Recommendation #3:

Create a subcommittee at the state level to review laws/policies related to the minimum age when a protection order may be requested without a parent or guardian to see if these restrictions can be changed to accommodate younger victims. Kareen Prentice, Domestic Violence Ombudsman, Office of the Attorney General.

Kareen Prentice made the following presentation:

The Attorney General's Domestic Violence Fatality Review Statewide Team issued a report that included recommendations from the Clark County Domestic Violence Fatality Review Team and the Washoe County Domestic Violence Fatality Review Team. The Nevada Council for the Prevention of Domestic Violence recently met with those three teams recently to look at whether any of the recommendations had been implemented. There have been a number of them that have been addressed or are being looked at to review again with regard to how or if they can be implemented.

Recommendation #3 has not been addressed. The rationale behind this was in some cases domestic violence starts very young and victims may be too embarrassed to talk to their parents about their concerns so requiring a parent or guardian for victims under age 18 may be a barrier to them seeking out these protections even when they have very serious concerns.

I did some research Journal of National Center for Youth Law and teens may be overlooked as they rarely contact legal organizations due to their age, lack of education, transportation, and tendency to be intimidated by adults. To compound matters, most legal aid organizations do not conduct outreach in places where teenagers typically spend time—such as homeless youth shelters, teen parent programs, and schools.

In Nevada a minor cannot obtain a protective order without a parent or guardian. There are different ways to look at this; is it teen on teen; is it a teen needing a protective order against a step-parent etc.

Kyle Ward asked if there were any cases linked to this issue. Ms. Prentice advised that case reviews are confidential so she would not know the cases the Clark County Team reviewed.

Chairperson Masto stated if the sub-committee had an appetite to take this issue on, we can ask the Clark County Fatality Review Team to report to give us some additional background on why this was a recommendation out of their committee prior to deciding whether we want to take this issue on. Kareen Prentice will contact the Review Team.

5E Taken out of order.

Brett Kandt made the following presentation.

There are numerous statutory victim notification requirements. Some of those requirements are imposed on law enforcement agencies. In some instances they are imposed on prosecuting attorney's offices or parole and probation or the parole board.

In the last few years with the grant funding we obtained the Attorney General has successfully implemented a state wide automated victim notification system known as Nevada VINE which can provide victims that choose to utilize the system automated notice whenever there is a change in an offenders custody status.

Last session the Parole Board sought and obtained approval through AB 40 to utilize VINE to fulfill their statutory victim notification requirements. This is efficient, can save resources and

tax dollars, is more convenient for the victims and probably improves victim safety which is the main purpose of the victim notification requirements. From a policy standpoint it was thought that maybe the State should consider some general statutory wording that provides that any agency that has certain victim notification requirements could fulfill those requirements through an automated victim notification system. The victim would have to opt in to utilize the system as opposed to traditional notification methods.

Mr. Kandt offered to provide a list of the statutory requirements regarding notification for distribution through Linda Fitzgerald.

The committee voiced that they would like more information before taking action on this item.

10. Comments from the committee members and 11. Future agenda items taken together.

Susan Meuschke commented that there were a number of items to be readdressed at the next meeting creating a full agenda.

Judge Stiglich asked if the committee could invite some court administrators to present on the issue of collection of fines, fees and assessments.

Susan Meusche asked if the group would be interested in a presentation on universal background checks specifically with regard to gun permits. Chairperson Masto commented that there is an initiative petition moving forward on this topic and the maker of the last bill if re-elected may try to bring back his bill from last session with the amendments that they were not able to add to it at the last minute.

Judge Stiglich added that she thought this issue was outside the mission of this sub-committee.

Dates for the next meeting will be coordinated by Linda Fitzgerald.

12. Comments from the public.

Liz Greb commented that there are different standards in place for how acquire and use their technology and frequently they are not able to interface with each other, an example being Controller's office not consulting with anybody else before they bought an off the shelf software package. We see this all the time and it has huge ramifications for victims services and across the board in government. It might be interesting to see if there is any legislative interest in standardizing new technology.

Kareen Prentice introduced Jenny Moses, Victim Specialist from the FBI.

13. Adjournment.

The meeting was adjourned at 3:33 p.m.