



STATE OF NEVADA

ADVISORY COUNCIL FOR PROSECUTING ATTORNEYS

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MINUTES
ADVISORY COUNCIL for PROSECUTING ATTORNEYS

Minutes of the September 26, 2013, meeting of the
State of Nevada Advisory Council for Prosecuting Attorneys -

held at Harrah's Laughlin – Conference Center
2900 S. Casino Drive, Laughlin NV 89029

I. Call to Order and Roll Call. Council Chairman Masto called the September 26, 2013, meeting of the Advisory Council to order at 12:15 PM.

Members Present:

- Catherine Cortez Masto, Chair
- Arthur Mallory, Vice Chairman
- Jim Dixon (represented by Charlotte Bible pursuant to NRS 241A.050(2))
- Richard Gammick
- Josh Reid ((represented by Bob Zentz pursuant to NRS 241A.050(2))
- Brett Kandt, Executive Director (recording secretary)

Members Absent:

- Neil Rombardo

Other Attendees: See attached sign-in sheet

II. Public Comment. None.

III. Discussion and possible action on approval of April 26, 2013, meeting minutes. Upon a motion by Richard Gammick, seconded by Arthur Mallory, and carried unanimously, the Council approved the April 26, 2013, meeting minutes.

IV. Discussion and possible action on election of Chairman and Vice Chairman pursuant to NRS 241A.040(2). Upon a motion by Arthur Mallory, seconded by Richard Gammick, and carried unanimously, the Council re-elected Catherine Cortez Masto as Council Chairman. Upon a motion by Richard Gammick, seconded by Charlotte Bible, and carried unanimously, the Council re-elected Arthur Mallory as Council Vice Chairman.

V. Chairperson's Report. No report.

VI. Executive Director's Report. Executive Director Brett Kandt reported as follows:

A. Budget status and expenditures – B/A 1041. Kandt reviewed to the budget for the current biennium, approved during 77th (2013) Nevada Legislative Session, and noted that there were no enhancements from the previous biennium.

B. NVPAC events calendar. Kandt reported that events currently scheduled include:

- Effectively Investigating and Prosecuting Domestic Violence Strangulation Multidisciplinary Seminars – October 7-8, Reno, NV
- 2014 Nevada Government Civil Attorneys Conference – May 7-9, Harveys Resort, South Lake Tahoe

C. Grant funding for training and technical assistance. Kandt reported the Council currently has the following grant funding:

- \$10,000 under VAWA STOP Subgrant No. 2012-STOP-47 for the Domestic Violence Strangulation Multidisciplinary Seminars
- \$5,000 under Justice Assistance Grant Project No. 10-JAG-32 for the 2013 Nevada Prosecutors Conference
- \$5,000 under Nevada Office of Traffic Safety Project No. LFD-2013-Ad Council-PA-00045 for the 2013 Nevada Prosecutors Conference
- Approximately \$10,000 in residual funding from Capital Litigation Improvement Initiative Technical Assistance Award No. 2005-DD-BX-K182

D. Executive Director’s service on state boards and task forces. No report.

VII. Discussion of any legislation listed on the Nevada Legislature website for the 77th (2013) Nevada Legislative Session. Kandt reported that AB 207 was originally proposed to address perceived issues in the handling of domestic violence cases involving juvenile perpetrators, and that workshops in Clark and Washoe counties would be held to review the current process for handling such cases and determine whether issues exist that require legislation. Kandt reported that Clark County Chief Deputy District Attorney Frank Ponticello and Washoe County Chief Deputy District Attorney Jo Lee Wickes would participate in the workshops in their respective jurisdictions. The Council also briefly reviewed SB 374 to regulate medical marijuana dispensaries as mandated by Nev. Const. Art. 4, Sec. 38.

VIII. Discussion of ethical implications for public attorneys of drafting implementation ordinances for medical marijuana dispensaries to implement Nev. Const. Art. 4, Sec. 38, and Senate Bill 374. The Council and others in attendance discussed ethical concerns in the implementation of the constitutional mandate for medical marijuana. Kandt indicated that he would discuss the issue of marijuana enforcement under the Controlled Substances Act with U.S. Attorney Daniel Bogden in light of the memorandum from the U.S. Department of Justice dated August 29, 2013, to all U.S. Attorneys, issuing guidance to federal prosecutors on marijuana enforcement. Kandt indicated he would request an opinion from the State Bar Standing Committee on Professional Responsibility and Ethics on the issue of whether any ethical violations might result if public attorneys, in the course of representing their respective state and local government entities, render advice and draft state regulations or local ordinances regulating the operation of medical marijuana dispensaries as mandated by Nevada

law, since the possession, use, and sale of marijuana remains illegal under the federal Controlled Substances Act.

IX. Discussion of proposals for legislation for the 78th (2015) Nevada Legislative Session. Kandt reported that he was developing proposed legislation to update the search warrant statute [NRS 179.045] to permit the use of technology in the application for and issuance of search warrants. Clark County Assistant District Attorney Christopher Lalli suggested a broader omnibus BDR to include revisions being developed by his office to existing statutory provisions regarding wiretaps, GPS, pen registers, and trap and trace devices. Richard Gammick indicated there may be new proposed legislation regarding juvenile justice reform and also recommended that NRS 283.440 [Removal of certain public officers for malfeasance or nonfeasance] be revised to curb abuses under the current statutory procedure. Storey County District Attorney Bill Maddox suggested that arbitrators in collective bargaining for public employees should be statutorily required to be licensed to practice law in Nevada.

X. Report from Solicitor General on cases pending before Nevada Supreme Court of possible interest and discussion of recent federal and state court rulings. Kandt indicated that the Solicitor General had nothing specific to report and referred to the recently-filed NVDAAs amicus brief in Brown v. Warden, Nevada Supreme Court case no. 60065, regarding the issue of whether, in light of Martinez v. Ryan, 566 U.S. 1 (2012), the alleged ineffective assistance of post-conviction counsel constitutes good cause for filing an untimely and successive post-conviction petition in a non-capital case.

XI. Discussion of the following commissions:

A. Nevada Supreme Court Indigent Defense Commission (ADKT No. 411). Richard Gammick reported that an October 11 meeting of the IDC had been cancelled but the issue of caseload standards was still under review. Mineral County District Attorney Sean Rowe reported that he was the new prosecutor representative to the Rural Issues Subcommittee.

B. Nevada Advisory Commission on the Administration of Justice (NRS 176.0123). Chairman Masto reported that no information on the Commission's interim meeting schedule has been released. Kandt reported that the Commission was assigned numerous additional responsibilities during the 77th (2013) Nevada Legislative Session.

C. Nevada Crime Commission (Executive Order 2011-24). Kandt reported that reported that no information on the Commission's interim meeting schedule has been released.

XII. Report from the Attorney General on the following boards:

A. Nevada Technological Crime Advisory Board (NRS 205A.040). Chairman Masto reported that with the clear trend towards crime that is facilitated through technology and that transcends jurisdictions it has become increasingly evident that there is a significant nexus between the Prosecution Advisory Council and the Technological Crime Advisory Board. Consequently, when a vacancy in the position of Executive Director of the Technological Crime Advisory Board recently arose, the Board took advantage of the opportunity to name Kandt to the opening. By having Kandt

serve as Executive Director of both entities, they can be brought together to create a synergy in a comprehensive coordinated response to tech crime so that they overlap and make the most effective use of their respective resources.

B. Nevada Substance Abuse Working Group (NRS 228.820). Chairman Masto reported that the Working Group would monitor the impact of SB 374 to regulate medical marijuana dispensaries and AB 39 to authorize the National Precursor Log Exchange (NPLEx) to prevent the unlawful sale of nonprescription pseudoephedrine (PSE) for use in the manufacture of methamphetamine.

C. Nevada Domestic Violence Prevention Council (NRS 228.490). Chairman Masto reported that the Council held its rural meeting in Alamo on August 1.

D. Nevada Domestic Violence Fatality Review Statewide Team (NRS 228.495). Chairman Masto reported that DVFRST has conducted 2 fatality reviews and will conduct another 2 in the coming year.

XIII. Council comments. Richard Gammick reported that he would be retiring at the end of his current term and expressed his thanks for being recognized with the 2013 William J. Raggio Award.

XIV. Discussion and possible action on Council review and approval of DUI Prosecution Manual. Kandt reviewed a DUI Prosecution Manual drafted by Bruce Nelson, Chief Deputy with the Clark County District Attorney's Vehicular Crimes Unit and the designated Nevada Traffic Safety Resource Prosecutor. Upon a motion by Richard Gammick, seconded by Arthur Mallory, and carried unanimously, the Council adopted the manual for use by Nevada prosecutors pursuant to NRS 241A.070.

XV. Discussion and possible action on time and Location of Next Meeting. Kandt will coordinate a meeting date in conjunction with the next meeting of the Nevada District Attorneys Association.

XVI. Public Comment. None.

XVII. Discussion and possible action on adjournment. Upon a motion by Richard Gammick, seconded by Art Mallory, and carried unanimously, the Council adjourned at 1:35 PM.

CERTIFICATION OF SECRETARY

I, Brett Kandt, the duly appointed secretary of the State of Nevada Advisory Council for Prosecuting Attorneys, do hereby certify that the foregoing is a true and correct copy of the minutes of the September 26, 2013, meeting of the Advisory Council, as approved by the Advisory Council on _____, 2013.

Brett Kandt
Secretary
State of Nevada
Advisory Council for Prosecuting Attorneys