

ADVISORY COUNCIL FOR PROSECUTING ATTORNEYS

Minutes of the June 27, 2014, meeting of the
State of Nevada Advisory Council for Prosecuting Attorneys -

held at the Office of the Attorney General – Mock Courtroom
100 N. Carson Street, Carson City, Nevada 89701-4717

with Videoconference access to the Office of the Attorney General
Grant Sawyer Building, 555 East Washington Avenue, Suite 3315
Las Vegas, Nevada 89101

I. Call to Order and Roll Call. Council Chairman Masto called the June 27, 2014, meeting of the Advisory Council to order at 10:05 AM.

Members Present:

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

Members Absent:

- Jim Dixon
- Neil Rombardo

Other Attendees: See attached sign-in sheet

II. Public Comment. Richard Gammick introduced Chris Hicks as the new district attorney-elect for Washoe County.

III. Discussion and possible action on approval of April 17, 2014, meeting minutes. Upon a motion by Richard Gammick, seconded by Arthur Mallory, and carried unanimously, the Council approved the April 17, 2014, meeting minutes.

IV. Chairperson's Report. No report.

V. 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, and noted that court assessments continued to fall short of projections.

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

- Intellectual Property Theft Seminar – July 22, Nevada Legislative Building
- 2014 Nevada Prosecutors Conference – September 10-12, Harveys Resort, South Lake Tahoe

C. Grant funding for training and technical assistance. Kandt reported the Council was awarded \$5,000 under VAWA STOP Subgrant No. 2013-VAWA-47 for sex trafficking prosecution training and \$5,000 under Nevada Office of Traffic Safety Project No. LFD-2014-Ad Council-PA-00029 for DUI prosecution training. Both grants will be utilized for the 2014 Nevada Prosecutors Conference.

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

VI. Discussion of development and implementation of state regulations and local ordinances regulating the operation of medical marijuana dispensaries as mandated by NEV. CONST. art. 4, § 38, and Senate Bill 374. Kandt referred to the Nevada Supreme Court's May 7 Order adopting a comment to RPC 1.2, clarifying an attorney's ethical ability to counsel, assist and represent clients in the regulation, enforcement and operation of medical marijuana dispensaries under state law.

VII. Report from Solicitor General on cases pending before Nevada Supreme Court of possible interest and discussion of recent federal and state court rulings. No discussion.

VIII. Discussion and possible action on proposals for legislation for the 78th (2015) Nevada Legislative Session. The Council discussed the following proposals:

A. Amend NRS 179.410-530 to authorize the interception of electronic communications, create a statutory exception for barricade or hostage situations, and amend NRS 179.410 regarding the use of pen registers and trap and trace devices to reference 18 U.S.C. § 2703, and §§ 3121-3127 as amended. Chris Lalli reported that a bill with this proposal and additional provisions for the use of precision location devices obtained pursuant to state law might be sponsored by Assemblyman Frierson.

B. Amend NRS Chapter 62F and/or NRS Chapter 179D to improve the administration and enforcement of laws regarding sex offender registration. John Jones reported that further amendments were in development with the goal of granting the juvenile court judges the discretion as to exempt a juvenile from community notification or placement on a community notification website on the basis of specific factors.

C. Amending NRS Chapter 484C to conform to *Missouri v. McNeely*, 133 S.Ct. 1552 (2013). Cheryl Wilson reviewed the impact of the U.S. Supreme Court's ruling on Nevada law and reported that the proposed revisions would to some extent reflect pre-implied consent statutes.

Upon a motion by Richard Gammick, seconded by Arthur Mallory, and carried unanimously, the Council approved in concept the submission of BDR's for these three proposals. The Council further discussed potential revisions to the medical marijuana laws, the potential revision of the statutory *per se* limits for marijuana metabolite, and the potential for a future ballot initiative to legalize marijuana for recreational use. Chairman Masto reported that she could provide contact information for the Colorado Attorney General's point person on recreational marijuana.

IX. Discussion of the following commissions:

A. Nevada Supreme Court Indigent Defense Commission (ADKT No. 411). Richard Gammick reported that the IDC had not held a recent meeting but the caseload studies still remained pending. Arthur Mallory recommended opposing the recommendations in the last report of the rural issues subcommittee to expand use of the State Public Defender and increase state funding.

B. Nevada Advisory Commission on the Administration of Justice (NRS 176.0123). Chairman Masto reported that the Commission was next scheduled to meet on July 8; the Commission will be considering the Justice Reinvestment initiative

from the Council on State Governments, and the Victims of Crime Subcommittee is reviewing various legislative proposals.

C. Nevada Crime Commission (Executive Order 2011-24). Richard Gammick reported that the Commission had no recommendations or proposals to date.

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

A. Nevada Technological Crime Advisory Board (NRS 205A.040). Kandt reported that on June 5 the Board supported the concept of the amending NRS 179.045 to allow for electronic transmissions, on the condition that appropriate safeguards for security and privacy could be identified and incorporated.

B. Nevada Substance Abuse Working Group (NRS 228.820). Chairman Masto reported that the Working Group was briefed on the Nevada medical marijuana program on May 27 and was hosting a high school competition to create PSA prevention videos.

C. Nevada Domestic Violence Prevention Council (NRS 228.490). Chairman Masto reported that the next meeting was scheduled for August 5 in Eureka, and that a joint meeting of the three domestic violence fatality review teams (statewide, Clark County and Washoe County) was held June 3 to identify barriers to conducting effective case reviews and making recommendations for prevention as a result of those case reviews as well as discuss solutions to those barriers and gain some consensus about how the recommendation process can work for all teams to be most effective.

[DEPARTURE OF CHAIR - LOSS OF QUORUM]

XI. Discussion of and possible action on proposed study of Nevada sentencing structure and felony categories by U.S. Department of Justice Office of Justice Programs Diagnostic Center. Kandt reported that representatives of the OJP Diagnostic Center met separately with the Attorney General, Clark County District Attorney and Washoe County District Attorney. The Council expressed concern that there appears to be no clearly defined goal for bringing in OJP; in the past, the stated goal for previous studies and for the AB 510 good-time credit was to reduce the prison population due to an anticipated increase that never materialized.

XII. Discussion and possible action on appointment of City Attorney to Nevada Offense Code Working Group. Kandt reported that Fernley City Attorney Brandi Jensen had volunteered to serve.

XIII. Council comments. None.

XIV. Discussion and possible action on time and Location of Next Meeting. Kandt reported the next meeting will be held in conjunction with the next meeting of the Nevada District Attorneys Association on September 11 during the 2014 Nevada Prosecutors Conference.

XV. Public Comment. None.

XVI. Discussion and possible action on adjournment. The Council adjourned at 11:35 AM.

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 June 27, 2014, meeting of the Advisory Council, as approved by the Advisory Council on _____, 2014.

Brett Kandt
Secretary
State of Nevada
Advisory Council for Prosecuting Attorneys