

**STATE OF NEVADA  
NEVADA COUNCIL FOR THE PREVENTION OF  
DOMESTIC VIOLENCE  
JUDICIAL TRAINING COMMITTEE**

## **Minutes of Meeting**

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*Monday, March 21, 2011, at 10:00 a.m.*

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

**Committee Members Present**

None

**Committee Members Present Via Teleconference**

Christine Jones Brady  
Valerie Cooney  
Dr. Michael Freda  
Mark Jackson  
Robin Sweet

**Committee Members Absent**

Catherine Cortez Masto, Attorney General  
Ron Titus  
Bob Zentz

**Public Present**

None

**Attorney General's Office Staff Present**

Henna Rasul, Deputy Attorney General  
Lorraine Webber, Assistant to the NCPDV

**1. \*Call to order and roll call of members.**

Dr. Freda called the meeting to order at 10:00 a.m. and established a quorum.

## **2. \*Review and approval of minutes from August 12, 2010 meeting.**

Ms. Cooney noted a correction under item four of the minutes. Ms. Brady made a motion to accept the minutes with corrections. Dr. Freda seconded the motion. A vote was taken and the motion carried. Mark Jackson, Robin Sweet and Valerie Cooney abstained from voting because they were not present at the August 12, 2010 meeting.

## **3. \*Discussion and possible action regarding judicial support for domestic violence issues.**

Ms. Cooney stated that at the February 9, 2011 Council meeting, she asked General Masto for some guidance on what, if anything, the Committee should be working on. This led into a discussion about General Masto's presentation at the limited jurisdiction judges meeting and the resistance she was met with there by some of the judges. The Council discussed the need for outreach to the judges with the goal of altering some of their views. Ms. Cooney said she was not sure if that is really the role of the Judicial Training Committee.

Mr. Jackson stated that he had had the opportunity to provide training at some of the limited jurisdiction judges' seminars and it is difficult to get everyone on the same page. There are judges who are misapplying the law and/or refusing to follow the law. He suggested working in cooperation with the AOC to devote a block of time to training on domestic violence issues at every meeting.

The Committee discussed particular issues regarding protective orders. Dr. Freda commented that the training list the Committee had developed included a topic on protection orders.

Ms. Sweet stated that training on protection orders was provided at the limited jurisdiction judges' seminar. In response to Mr. Jackson's comment regarding training at every meeting, Ms. Sweet said that many people have made the same request and they are unable to accommodate them due to limited time for training. She said that when there is new or changing information, they do try to get it to the judges. In addition, there is training for all new judges. The Nevada Supreme Court has also ordered domestic violence training for judges so there is training in place, though she agrees there are still issues.

Ms. Cooney agreed that it may not be a training issue, but a matter of some judges' personal belief systems. She thought it would take a variety of steps or approaches to address the problem, and it may be different for each judge identified.

Mr. Jackson noted that one of the issues that has arisen as a result of SB163 sponsored by Senator Gustavson, has to do with the 12 hour cooling off period after an arrest has been made. Some judges read NRS 178.484 to mean that the cooling off period only applies if the offender is arrested when law enforcement responds to the scene. If the offender is arrested weeks later then the judge may set bail immediately which potentially jeopardizes victim safety and defies the logic of putting the 12 hour hold into law in the first place. This situation is an example of why ongoing training is necessary.

Mr. Jackson added that it would be a huge liability if the offender was released and attacked the victim. Bringing a judge up on a writ may be a way to get their attention. Ms. Cooney said that she had spent time writing letters and meeting with judges with no effect. She is also in favor of the writ option. Mr. Jackson suggested getting this issue before the Prosecution Advisory Council. With additional training, prosecutors may be more likely to file writs.

Dr. Freda asked for clarification on how the writ process works. Mr. Jackson stated that depending on the situation, there could be a writ of mandamus which would mandate the judge to do something he is not doing, or a writ of prohibition which would prevent the judge from doing something he is already doing. These writs would ask a district court judge to order a limited jurisdiction judge to act a certain way, depending on the circumstances. If the limited jurisdiction judge violates the district court order then they face contempt charges and may be required to go before the Commission on Judicial Discipline.

The Committee discussed specific issues they have had with various judges and what affect a writ might have on the way they apply the law.

Ms. Cooney asked Ms. Sweet if judges were required to get a certain number of hours of training in domestic violence. Ms. Sweet replied that new judges are required to take several courses in their first couple of years but she was unsure how much of that was related to domestic violence. The bench book covering the topic is updated when there are legislative changes.

Dr. Freda will contact Brett Kandt about reaching out to the prosecutors regarding this issue.

#### **4. \* Discussion and possible action regarding AGO 2001-31 concerning service of protection orders.**

At the February 9, 2011 Council Meeting, Sue Edmondson, Washoe County Family Court Master gave a presentation on the policy which the Court has adopted based on AGO 2001-31. According to this policy, extended orders of

protection may be served on the adverse party by mail. Some judges and others are concerned that this may not meet the requirements of due process.

Mr. Jackson commented that there is a judge in Douglas County who requires that the extended protection orders be personally served. After the Council meeting, Mr. Jackson stated he had the chance to review the opinion and found that some of it is now moot. At the time Ms. Hart prepared the opinion, there wasn't a statute for use in her analysis. As is common when the Attorney General issues an opinion, the issues regarding the opinion came up in the next legislative session. In 2003, NRS 33 was amended to add a sentence to NRS section 33.070(1) so that the subsection reads:

1. Every temporary or extended order must include a provision ordering any law enforcement officer to arrest an adverse party if the officer has probable cause to believe that the adverse party has violated any provision of the order. The law enforcement officer may make an arrest with or without a warrant and regardless of whether the violation occurs in the officer's presence.

The second sentence adds discretionary language that was not in the statute at the time the opinion was formulated.

In addition, the legislature added NRS section 33.065 during the 2003 session. This section talks about alternative methods for serving adverse parties. If the current address of the adverse party is unknown and law enforcement has made two attempts to serve, then it allows service at the current place of employment. If there is service by mail, then the adverse party is deemed to be served 10 days after the date of mailing.

Mr. Jackson said that he believes that if these sections were in statute at the time AGO 2001-31 was written, the analysis would have been different. Although the current statute does allow service by mail, it also puts some discretionary language into place so that a judge does not have to allow a TPO to be served by mail.

The Committee discussed what, if anything, they should do in regard to the opinion. Ms. Cooney stated that if a court wants to require personal service, then she thinks it has the authority to do that.

Mr. Jackson said that based on today's discussion as far as judicial training goes, he thought two things should be presented and discussed: the 12-hour cooling off period and service of extended protection orders.

Ms. Cooney asked if anyone knew the status of SB163 concerning the 12-hour hold. Mr. Jackson stated he thought it would be defeated behind the scenes.

Dr. Freda suggested that maybe the Attorney General's Office should issue an updated opinion incorporating the legislative changes. Ms. Cooney stated that she didn't believe the Committee should engage in any activity that asks for an AG opinion. In her experience, the AG opinions have limited use and utility under the law. Mr. Jackson has laid out the current status of the law. Given the legislative changes subsequent to the AGO 2001-31, the Committee members were uncertain about why this was brought up at the Council meeting and whether some sort of action regarding it is required. The Committee did not think that any action was necessary at this time.

Mr. Jackson thought it would be beneficial to review the bench book on domestic violence issues. He also suggested getting feedback from the District Attorneys on the major issues in their jurisdictions. Ms. Cooney stated she would like to see what kind of training on the topic is already required of judges. Ms. Brady stated she thought it would be a good idea to get those working in family law involved, and expressed concern about protecting the rights of victims. Ms. Sweet asked if, in previous meetings, Michael Bell presented a summary of all the required education for judges. Committee members did not recall getting a specific list. Ms. Sweet said she would send the training information to Ms. Webber and it will be forwarded to Committee members with a link to the bench book.

#### **5. \*Schedule future meetings and agenda items.**

Ms. Cooney stated that she would like to think about some specific agenda items and will forward her ideas to Ms. Webber.

Mr. Jackson asked for an agenda item to discuss any bills that may have passed during the legislative session and if any of them would necessitate additional training for judges, perhaps at the next limited jurisdiction judges' conference. Ms. Sweet stated that the summer conference agenda is already near completion.

The next meeting was scheduled for June 9, 2011 at 3:00 p.m.

#### **6. Public comment.**

There was no public comment.

#### **7. \*Adjournment.**

The meeting was adjourned at 10:54 a.m.