

**NEVADA COUNCIL FOR THE PREVENTION OF DOMESTIC VIOLENCE  
LEGISLATIVE COMMITTEE**

**MEETING MINUTES**

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**Tuesday, September 9, at 1:00 PM**

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Via Teleconference with Public Access Located at:  
Office of the Attorney General  
5420 Kietzke Lane, Suite 202, Reno, Nevada 89511

Call-In number - 888-557-8511  
Access code – 4188407

**Committee Members Present**

**Committee Members Present via Teleconference**

Christine Jones Brady  
Brett Kandt  
Dr. Mike Freda  
Robin Sweet  
Elynn Greene  
Sue Meuschke

**Committee Members Absent**

Clarice Charlie  
Sherri Grotheer  
Dori Guy  
Rev. Victoria Warren

**Public Present**

None

**Attorney General's Office Staff Present**

Kareen Prentice, Domestic Violence Ombudsman (via AGO-Reno)  
Colleen Platt, Deputy Attorney General, Legal Counsel to NCPDV (via phone)  
Anjanette Bitsie, Administrative Assistant (via AGO-Reno)

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1. Call to order, roll call of members, establish quorum.

Meeting was called to order at 1:05 by Christine Jones Brady, Anjanette Bitsie took roll and established quorum.

2. Public Comment

There was no public comment.

3. Review and approval of minutes from July 8, 2014 meeting. (For possible action.)

Robin stated she has a correction under item 7. The spelling of antidotal should be changed to anecdotal. Dr. Freda made a motion to accept the minutes with the changes Brett Kandt seconded the motion. A vote was taken and the minutes were approved unanimously.

4. Update and discussion on NCPDV biennial legislative report and judge survey. (Robin Sweet) (For possible action.)

Robin stated that they have turned the questions into an electronic survey. General Masto has agreed to send the e-mail survey out from her office. Kareen drafted the email. She had her committee and AOC review the drafted survey and provide feedback. They are ready to go. The survey will go out soon. Kareen stated that she had spoken with Linda Fitzgerald the Attorney General's assistant. She reported that the Attorney General has reviewed the survey and the email has approved it and the email will go out this afternoon. Brett Kandt asked when the response deadline is. Kareen responded September 22, 2014. Robin stated they will have a meeting to decide what they need to craft perhaps as a chapter.

5. Discussion regarding legislative changes to custody evaluations discussion led by Dr. Michael Freda. (For possible action)

Dr. Freda stated he sent three documents for custody evaluations. He referenced California Family Code 1816 actually defines the qualifications for someone who is doing custody evaluations for the courts in the State of California. The courts monitor whether or not an individual has the proper qualifications, not the licensing bodies. It allows licensed psychologists, family therapist, licensed clinical social workers to do evaluations provided that they pass the appropriate training. The courts make sure they have passed the 40 hours of training in domestic violence and sexual abuse. Once these individuals pass they are appointed cases. Once they are in, they have to complete 12 CE hours every year.

Dr. Freda would like to create a piece of legislation that would outline a similar process for qualifications for custody evaluations in Nevada. In the past he has experienced providers who do not have the proper training; as a result there

have been cases where custody has been awarded to the perpetrator. They are putting the kids back into harm's way. Christine Brady asked what kind of background work has been done. She explained that the licensing board will need to oversee this. In order for any legislation to be passed a bill like this will need the support of the licensing board. Dr. Freda has informally talked to the individual board members informally but not officially. They have no problem with it but stated that it is not their responsibility to track this. He stated he has had difficulty with the Board of Psychologists. They believe that the idea will be infringing on their territory regarding the right to define qualifications. Brett asked what board is that. Colleen stated it is the Psychological Examiners Board. Brett asked if is talking about placing the authority to regulate the requirement for a professional to conduct custody evaluations with the court? Dr. Freda stated yes. Brett asked the Supreme Court? Dr. Freda stated Family Court. Brett asked if a Judge can individually assign a case reviewer for the cases that come before them... Dr. Freda gave an example. Brett asked for clarification. Is there a similar procedure in place for instance does the court have similar authority when it comes to treating a sex offender. Does he determine what qualifications a professional has to have to be able to treat a sex offender that is adjudicated in that court? Is that a similar procedure? Dr. Freda stated no they don't but they have a similar procedure for domestic battery. Brett stated that that is certified by the Batterer's Treatment Licensing Board that is not within the courts purview. The court has to order them to treatment; the defendant has to get treatment. This instance is different. Dr. Freda conferred. Brett asked if there was any other instance where the courts would have similar authority over professionals.

Dr. Freda responded that there is similar process with DUI evaluations that is governed by SAPTA not by the courts. It is the same as Domestic Violence. Brett asked if anyone has talked to the courts or the associations that represent the family court judges about this proposal. Robin stated they had their legislative meeting and there was no mention of this proposal. Dr. Freda asked how they would go about doing that. Christine stated it would be something that would need to be done before we could put legislation forward, there are other impacts that they will need to be looked at financially. The Supreme Court would like to be consulted. There needs to be some organizational overlay to see where the responsibility lies. They need to see the financial impacts and where they will hit. Brett stated anyone who is affected and given responsibility of the proposal will need to be consulted. Now they are on the eve of session it may be too late for 2015 so we may be looking at 2017 session.

Colleen Platt read **NRS 125C.230 Presumption concerning custody when court determines that parent or other person seeking custody of child is perpetrator of domestic violence.**

1. Except as otherwise provided in [NRS 125C.210](#) and [125C.220](#), a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody of a child has engaged in one or more acts of domestic violence against the child, a

parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child. ...

Colleen stated that this is the standard and defined in case law. Christine stated it is the standard just below a beyond a reasonable doubt and then she went through the frameworks of burdens of proof for fact finders. Brett stated the affected parties that need to be contacted would be courts, the supreme court, family court, and the associations that represent them, family law section of the state bar, the affected licensing boards like the psych bar and other licensing boards in the state. Robin stated that they do have the family court judges in the 2<sup>nd</sup> and the 8<sup>th</sup>, in the other 15 counties the district judges hear the family court cases. She recommends he reach out to the family courts, but also to the Nevada District Attorneys Association. Brett clarified that the associations are the appropriate venue to approach it. Dr. Freda stated this is something he is interested in doing. He wanted clarification in the way he is reading it if the only way they can have that presumption is if there was a conviction of domestic battery. Colleen stated no not necessarily. If there is an allegation that has occurred, the court will have an evidentiary hearing. If a child has made a claim if someone in the home is beating them whether it be a parent or other that qualifies as domestic violence as defined in NRS 33.018, the court will have a hearing where evidence is presented by both parties. The courts make the determination.

It could result in a conviction or it could be a mere allegation supported by hospitals then it does not necessarily end in conviction. Brett clarified by stating there is a couple in family court in the rural jurisdictions or in district court in a custody proceeding. One of the parties brings this issue to the court. The courts hold an evidentiary hearing. The burden of proof is clear and convincing. If the court can find and articulate the facts and rise to the level of clear and convincing evidence that this is an issue, then there is the presumptive effect that affects the court's custody decisions. Christine added at that point it would up to the parties if they want to rebut the presumption or even demonstrate the clear and convincing evidence like say there is no clear and convincing evidence and if it's an allegation or an affidavit then that's when the evaluation would come into play.

Christine would like to table this for the next meeting. She will take the statute that Colleen mentioned. From the sounds of it the statute does not preclude anyone from doing the evaluations. That is what the issue is. Dr. Freda stated that his issue is to ensure that the individuals that are doing the evaluations are

properly trained in domestic violence and child sexual abuse. He gave instances where the system failed. Christine acknowledged there are all types of scenarios. Colleen stated the question that needs to be asked first from a legislative standpoint, is where is a duty for someone to get the evaluation. Is there a statute currently that requires someone in a custody hearing to have an evaluation done? She does not see one currently based on her search. Are these things the parent undertakes to show why they should have custody and the other one shouldn't. If that is the case, if I as the parent am going out to evaluate my child so that I can bring that report with me to court when I go to a custody hearing. That is a different analysis than one that is there with a statute currently requiring that evaluation to take place. Dr. Freda agrees there is no statute that dictates a custody evaluation. Colleen explained that there are a couple of layers that need to be addressed when perusing the requirement Dr. Freda is proposing. There are other areas of custody issues that need to be addressed such as chapter 125, and 125A along with a few others.

There are a few chapters that need to be gone through and put that duty on someone to have an evaluation done before having that discussion about custody. From there you would craft who was qualified to handle those evaluations, whether it would be a marriage and family therapist, a psychologist or a psychiatrist. At that point, when you put that duty on someone to get an evaluation it flows from there to who the evaluator is. Christine and Dr. Freda thanked Colleen for her input. Colleen suggested that they look at NRS 125.480 divorce section as a starting point regarding the best interest of the child. You could start adding there the requirement for evaluations. Once it is done, LCB will conduct an analysis. Christine asked affirmation that LCB will take care of it. They will not have to do it. Colleen confirmed. At this point one of the legislative committee will do it. But at this point it would be an individual legislator bill. Christine asked Dr. Freda if he had a legislator in mind. He stated no. Colleen suggested that he go into the past legislature bills and find the legislator who sponsored similar type bills and talk to them. Christine stated that once he has found one the committee can add it to this agenda item.

6. Review, discussion and possible action regarding possible upcoming legislation for the 2015 legislative session. (For possible action)

Christine was looking at a list of legislation. She stated it was hard to see from the titles. She was looking at sexual education and including domestic violence in school curriculums. She is interested in keeping tabs on this legislation. Dr. Freda agreed. Brett stated that there is no consensus from the committee. Elynn Green stated that in the past they lost ground in Domestic Violence when they mix Domestic Violence and Sex Education. Christine talked about the topic of teen dating violence. Christine asked if they have seen anything in the BDR yet. No one has. Colleen stated that BDR 38 has a sex education topic.

Elynn Green has not seen the BDR list from Metro. Robin stated that the Judicial Branch gets ten bills to submit each year. Brett stated maybe the more productive question is if there is anyone on this committee aware of specific legislation that is going to be sought in the area of domestic violence. Colleen stated there are a few potentials on the website. BDR 110 by Leslie Cohen, revises provisions governing domestic relations, BDR 115 by Duncan, Revises provisions governing domestic violence, BDR 274 by Leslie Cohen, making various changes concerning domestic relations, BDR 275 by Cohen, enacts provisions relation to domestic relations, BDR 276 by Cohen, Revises provisions governing domestic relations.

7. Review and discussion of the Legislative Committee description for the main NCPDV Council description list. (For possible action)

#### Legislative

This committee is responsible for making recommendations for any necessary legislation relating to domestic violence to the Office of the Attorney General. This committee also keeps current on any legislative bills submitted dealing with domestic violence and sexual violence. This committee can coordinate support for the bill if appropriate or communicate non-support if the bill is counter beliefs of members of the Council and chair. (For possible action)

Brett Kandt read the description. He stated the last line needs to be changed. Christine in general likes the content. Brett wants to amend the last line to read [This committee May coordinate support for a bill if appropriate or communicate non-support if a bill does not reflect the consensus of the Council](#). Colleen stated they can task a rewrite to the group. Brett stated they should adopt it with the changes and get the work done. Brett made a motion that they adopt the description with the changes. Robin Sweet seconded the motion. Christine called for a vote with five yes and one no. Colleen stated there needs to be discussion before the vote.

Sue Meuschke voted that she feels like the paragraph is poorly written and is not clear to her if this is what the committee does. Brett offered to withdraw his motion. Colleen stated there is a motion and a second they can vote on it and it passes it passes. You can withdraw the motion but you will have to withdraw your second. Christine stated if this is what the committee does she wants input from the committee. Regardless of what it has done in the past she wants the members to provide input on what the committee should be doing.

Brett stated that it fairly describes one of the functions of the committee in addition to contributing to the biennial report. They keep tabs on and make recommendations on legislation. They keep to the area of domestic violence and have broadened to sexual violence and sex trafficking. When it comes to testifying we do typically coordinate support if it is appropriate or non-opposition, but it is usually is due to a consensus of the council of the bill or part of a bill is

good or bad. In the past, things happen so quickly, that there is no time to convene the council. If there is a bill that they discussed sufficiently beforehand as a council and know the general feelings from the committee members, they are empowered to communicate that during the legislative process.

Christine Brady stated in regards to empowerment, she understands that the committee is advisory to the AG. Brett stated that the AG is granted a number of bill draft requests and if there is a consensus of a piece of legislation regarding domestic violence or sexual violence in general then the AG will lead by carrying that bill in the Attorney General's bill package. Sue Meuschke volunteered to draft a description, Christine offers to write one too. Christine wants to add a piece of the Biennial Report. She wants to know what her role is with the Biennial Report. She asked Colleen if that is ok. Colleen stated it was ok and to give the drafts to Angie and she will put them together for the committee to decide. Christine asked about quorum issues, Colleen clarified that it two people wanted to do it that will be fine. Brett offered to withdraw his motion. Robin withdrew her second. Christine stated they will look at the description and send the rewrites to Angie. Sue had concerns about the drafting process. Colleen clarified the draft process and Angie's role.

8. Schedule future meetings & agenda items.

The Next Meeting will be 12/2/14 at 1PM

9. Public Comment.

There is no public comment.

10. Adjournment

The Meeting was adjourned at 2:00