



**STATE OF NEVADA
ADVISORY COUNCIL FOR PROSECUTING ATTORNEYS
100 North Carson Street
Carson City, Nevada 89701**

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DRAFT MEETING MINUTES

Organization: Advisory Council for Prosecuting Attorneys

Date and Time of Meeting: September 28, 2020 • 2:00 p.m.

Place of Meeting:

Telephonic Conference Call
Number: 605-313-5111
Access code: 468822

Members Present:

Aaron D. Ford, Attorney General, Chair
Theresa Haar, Special Assistant Attorney General,
Executive Director
Steve Wolfson, Clark County District Attorney
Karl Hall, Reno City Attorney
AJ Delap, LVMPD
Art Mallory, Churchill District Attorney
Jenny Noble as proxy for Christopher Hicks, Washoe
County District Attorney

Guests Present:

Anela Kaheaku, Attorney General's Office
Christopher Lolli, Clark County District Attorney
Office

1. **Call to Order and Roll Call.**

2. **Public Comment.**

None

3. **Approval of minutes of September 28, 2020 meeting.**

Steve Wolfson moved to approve the minutes of the September 28, 2020 meeting and Karl Hall seconded the motion, with no opposition, the minutes were approved.

4. **Welcome to newest board member.**

Withdrawn.

5. Discussion of Notice of Remand in Criminal Cases.

Ms. Haar discusses with Board members that Nevada Department of Corrections is requesting a process to be implemented if an inmate in NDOC custody has had their conviction overturned on appeal and their case is being remanded back to District Court.

Nevada Supreme Court used to provide notice to NDOC regarding all appeals and remands. Due to updates to the Court's system those notices are not automatically forwarded to NDOC. NDOC is not aware of any appeal/remand until the inmate writes a 'kite' to ask why am I still here my conviction has been overturned I'm supposed to be remanded back to court for a new trial and you still have me here. NDOC has had complications trying to track down the orders. While the inmate's representative should be providing a certified copy to NDOC they have asked if there was any way that the District Attorneys offices could provide notice to them any time an appeal of conviction is overturned. This would ensure that they have the correct Order and they are able to update their system.

AG Ford asks if this item is a public item or just a question for the Committee members. Ms. Haar states that it's both, informational and for discussion. She is requesting the information on behalf of NDOC with the intent on seeing if the Committee members have had this method previously or a different method that could be used, or if there is a similar notification process that could be implemented.

Ms. Nobel asks how NDOC would want to be notified. Ms. Haar states that she will follow up with NDOC but an email or U.S. Mail would be helpful. Ms. Nobel asks if NDOC is having the problem with transferring of inmates and the timing. Ms. Haar states that that is the biggest issue. Ms. Nobel states that in Washoe County they usually have an Order to Produce that they bring before the court if the inmate is needed and that usually takes care of the transportation. She states that she would be happy to reach out to NDOC and see what they are needing.

Mr. Lolly states that his understanding is the same as Ms. Nobels. His office also files Orders to Produce to the Court if an inmate is needed.

Ms. Haar states that she will follow up with NDOC and see what their specific issues are.

Mr. Lolly asks if maybe NDOC would reach out the Supreme Court clerk and see if they can be placed on a mailing list. Ms. Haar states that NDOC did reach out to the court clerk and was told that that is no longer an option to receive only remand orders, they would have to be copied on all criminal appeal matters and this would be overly burdensome to NDOC.

AGO Ford suggests that NDOC may want to be a part of the next meeting to address this issue with everyone. Ms. Haar states that she would reach out to NDOC to get a more specific issues they are having and where the breakdown seems to be. AG Ford states for Ms. Haar to go ahead and reach out to NDOC and the invitation is open for NDOC to attend the next meeting to offer additional information if needed.

6. **Discussion of post-Anderson domestic battery jury trials.**

Ms. Haar asks the Committee members for status on this matter as it has been a year since the *Anderson* decision came down regarding domestic battery jury trials/domestic battery cases and how their respective offices are handling them. She states that she believes that there are two related issues that will help with matters going forward, first is City of Henderson has a supposed BDR that would clarify the issue on whether or not municipalities can help a jurisdiction to conduct jury trials with domestic battery and relatedly next week Supreme Court oral argument on the *Roman Health* case which will hopefully clarify significantly in court on the schedule of retroactivity of the *Anderson* decision.

Mr. Wolfson states that in the last 12 months or so they have had a total of 2 battery domestic violence jury trials with a success rate of 50%. He states that it in his opinion it is a shame that all of the energy that so many people put in and the hours and hours discussing this issue, that only 2 cases went forward. It is not because the prosecutors aren't preparing cases for jury trial or preparing witnesses etc. but at the end of the day the Defense lawyers want jury trials and in Clark County they've gotten 2 not because they are denying them but at the end of the day most of them plead guilty when it gets close to a trial.

AGO Ford asks if COVID was a factor. Mr. Wolfson states that they had one trial that was pre-COVID and one that went 3-weeks afterwards, so no effect on the cases.

Ms. Nobel states that in Washoe County they have not had any cases go to trial. They have had similar experiences where they had witnesses prepped etc. and the defendant wanted to plead on the day of trial and shortly after COVID started.

AGO Ford asks Mr. Mallory his status. Mr. Mallory states that they have not had any jury trials since inception of *Anderson*, they have one set for January but does not know if it will go or not.

7. **Public Comment.**

None.

8. **Adjournment.**

Motion to adjourn by Art Mallory.

Minutes respectfully submitted by Anela Kaheaku, Legal Secretary II