

Nevada's Prosecutors - Innovative Programs -

National Prosecutors' Consortium



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The Evolving Role of the Prosecutor

Over the last forty years, there has been a dramatic transformation and expansion of prosecutors' mission, to not only vigorously prosecute criminal cases, but also to engage in crime prevention, problem solving and community partnerships. Prosecutors' fundamental goal is to protect the community and ensure justice when enforcing the law. Traditionally, a prosecutor's role was a limited and relatively passive one - to evaluate and prosecute arrests made by the police.¹ That role has expanded and evolved significantly. The shift is driven by the need for more complex solutions that not only seek positive outcomes for victims, but also strive for long-term solutions for preventing crime and assisting those who are entangled in the criminal justice system.

Prosecutors are uniquely situated to be effective in carrying out these new initiatives. They play a pivotal role in the criminal justice system, making decisions and exercising discretion about whether to prosecute, whom to prosecute, and how to prosecute. Also, as leaders in law enforcement, prosecutors can work with the police and other partners to improve community relationships and to build trust in the criminal justice system.



1. Catherine M. Coles, *Evolving Strategies in 20th- Century American Prosecution*, in *THE CHANGING ROLE OF THE AMERICAN PROSECUTOR, 182-187* (John L. Worrall & M. Elaine Nugent-Borakov, eds., 2008).

The National Prosecutors' Consortium

The National Prosecutors' Consortium (NPC) project is designed to collect information on innovative programs employed by prosecutor offices, to assist prosecutors in developing and deploy-

ing new programs, and to expand their research capabilities. The main areas of focus are the prevention of violent crime, community engagement, and encouraging victim/witness cooperation.

Many of the nation’s prosecutors relish the opportunities presented by their expanded roles in the criminal justice system and have adopted innovative programs. However, the nature of their new initiatives is impacted by the size and resources of the organization. A large office with plentiful resources can implement multiple forward-thinking initiatives that impact a large segment of their population. Conversely, a smaller jurisdiction may only have the capacity to develop a smaller, yet still meaningful initiative.

Innovative programs described in this paper are newly developed initiatives undertaken by an office in keeping with its unique resources and the needs of its community. Ideas for new programs are freely shared amongst prosecutors and can nevertheless be innovative when they are introduced, implemented, and customized to suit the needs of a particular office. For instance, a program that would be considered innovative in a smaller office, may be more common-place in a larger office. We seek to highlight those offices that are embracing their new role by working within their capacity to bring effective and proactive programs to their communities.

As part of the NPC project, a prosecutor survey was administered during 2019 at the county level across the United States on a state-by-state basis. The survey captures baseline information about prosecutor offices and collects information about the various evolving and non-traditional aspects of a prosecutor’s office, such as alternatives to incarceration, preventing violent crime, community outreach, victim/witness support, and treatment programs.



Overview of Nevada Prosecutor Programs

Nevada prosecutor offices range in size and in the types of communities that they serve. Some serve in large, bustling cities like Las Vegas and others work in suburban districts or rural areas. The available resources and staff vary greatly between the offices, as does the needs of their communities.

Out of 17 counties, 11 (65%) of the prosecutors in Nevada participated in the NPC survey. The survey demonstrates that the responding Nevada prosecutors participate in a wide variety of programs and initiatives. These programs include Drug courts, Alcohol/Driving Sobriety

courts, Mental Health courts, drug treatment, mental health services, Victim Assistance programs, and Co-located Child Abuse programs.

The survey found that 91% of Nevada’s prosecutors engage in problem solving courts or other programs that offer alternatives to incarceration. Over half of the offices (64%) offered Victim Services without Arrest, Victim Assistance programs (55%), and drug treatment (55%). Slightly less than half offered mental health services (45%) and Witness Assistance programs (45%).

Community programs that prosecutors either run or participate in are also common, with 55% reporting participation. Nevada prosecutors are involved with Co-located Child Abuse programs (45%), Adult Education programs (36%), and Youth Education programs (36%).

2. Solomon, S.E., Uchida, C.D., Connor, C., Swatt, M.L, Revier, L, Quigley, A. M., & Hock, S. (2019) *National Prosecutors’ Consortium, Survey Highlights: Nevada, Justice & Security Strategies.*

Innovative Programs - Examples

To demonstrate the variety of innovative programs initiated in Nevada, two offices are highlighted: Clark County, a very large county that includes Las Vegas, and Washoe County, a medium-sized county with just under half a million residents.

The Clark County program is a first appearance court that conducts probable cause reviews more quickly to better serve defendants. The Washoe County program is a Specialty Courts Division that provides alternative courts for particular groups such as veterans, juveniles, those suffering from mental health issues, and individuals with drug addictions.

Clark County District Attorney's Office

Population: 2.1 million

Number of Prosecutors: 177 full-time prosecutors

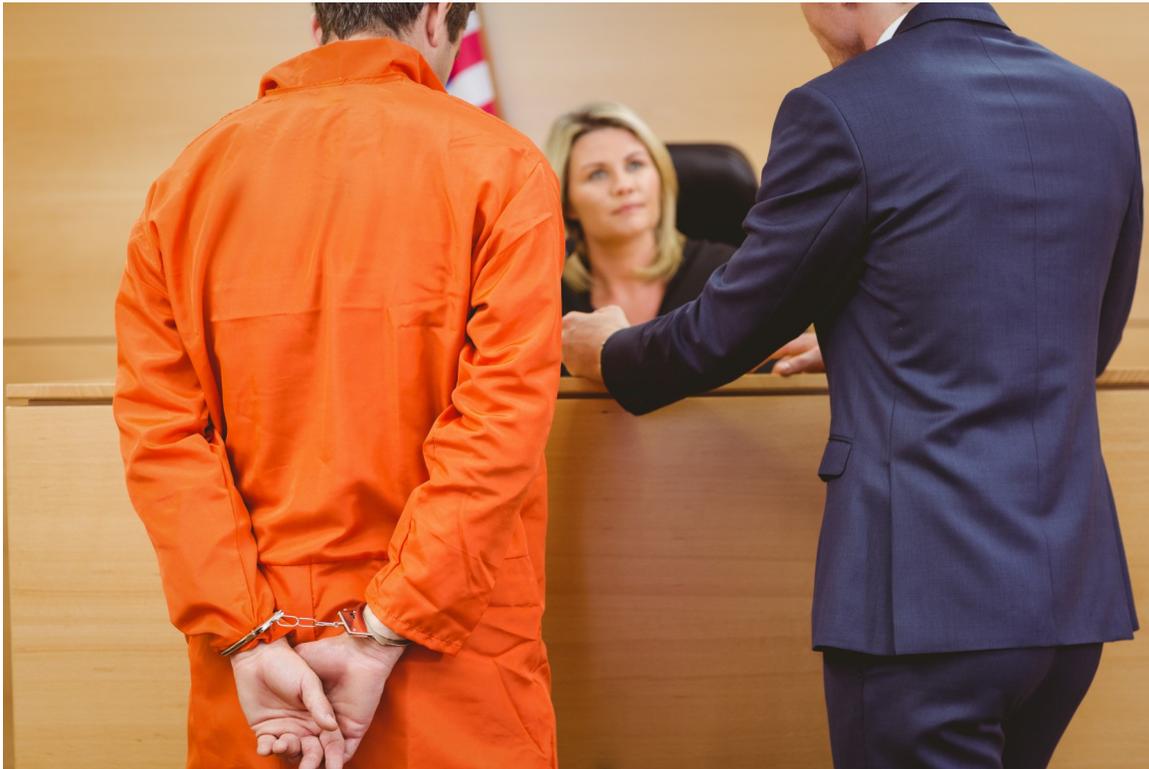
Las Vegas Justice Court First Appearance Court

On January 7, 2019, the Clark County District Attorney's Office began participating in a new Initial Appearance (IA) Court, the first of its kind in Nevada. Prior to the inception of the new court, probable cause reviews were conducted in an *ex parte* fashion in the Las Vegas Justice Court with no input from the District Attorney or the defendant. Judges would simply review a Declaration of Arrest, decide whether there was probable cause to support the charge, and, if so, set bail.

By way of background, in *Gerstein v. Pugh*, 420 U.S. 103 (1975), the United States Supreme Court recognized the right to a prompt judicial determination of probable cause following a warrantless arrest. In *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991), the Court decided "prompt" meant within forty-eight hours of arrest absent some extraordinary circumstance. Separate from the constitutional procedure set forth in *Gerstein* and *McLaughlin*, Nevada also has its first appearance statute, NRS 171.178. Under this provision, a defendant must physically be brought before a judge within seventy-two hours of arrest, excluding nonjudicial days. In theory under this statute, if a defendant were arrested on a Friday, he or she could remain in custody without seeing a judicial officer until the following Wednesday – five days later.



In order to live up to the requirements of the court decisions and Nevada's first appearance statute, the Clark County District Attorney's Office worked with the courts, the defense bar, and the County Manager's Office to update and improve the initial appearance process in Clark County. This collaborative process took over a year and considerable additional funding to pay for the prosecutors and defense attorneys needed at the initial appearance. Ultimately, all parties agreed to a process that exceeded the minimum standards set by the courts and the legislature.



Thus, the new IA Court runs seven days per week and meets for two sessions per day. During the sessions, defendants are brought before a judge, usually between 12-24 hours after arrest, and a determination of probable cause is made. They are represented by counsel and participate in a hearing regarding their custody status. The District Attorney provides information to the Court on when charges will be filed. If charges will be denied or if further information is being requested from law enforcement, the defendant is released from custody. This new process, promoted and endorsed by the District Attorney, has modernized and enhanced the probable cause review process.

Washoe County District Attorney's Office

Population: 465,735

Number of Prosecutors: 63 full-time prosecutors

Specialty Courts Division

In 2016, Washoe County District Attorney (WCDA) Chris Hicks established the first ever WCDA Specialty Courts Division. The division is currently overseen by an assistant district attorney (ADA) and staffed by two deputy district attorneys (DDAs) and one legal secretary. Additionally, many other WCDA prosecutors routinely and graciously volunteer to cover Specialty Court dockets during staffing shortages.

The office has been appearing on limited Specialty Court dockets since its inception in 1995, but the catalyst for the establishment of the Specialty Courts Division occurred in 2015. This was a critical time for Washoe County's Specialty Courts, as many new court programs at the district and justice court levels were launched. Sparks Justice Court (SJC) launched Sparks Recovery Court in 2015, while District Court launched its Medically-Assisted Treatment Court and Young Offender Drug Court. These courts provide participants with medication to break their dependence on illegal drugs and strive to combat the crippling effects of addiction.



In 2016, the Specialty Courts Division began covering Veterans Court, Felony DUI Court, Medically-Assisted Treatment Court, Diversion Court, Adult Drug Court, Young Offender Drug Court, Prison Re-entry Court, and Mental Health Court. Specialty Courts Division DDAs also began hosting presentations approved for continuing legal education credits. Presentations covered a wide array of specialty court-related topics such as substance abuse, addiction, and mental health for lawyers. DDAs were further assigned to all justice court level programs in both Reno Justice Court (RJC) and SJC, including RJC's Community Court diversion program and SJC's Recovery Court. In March of 2017, they assisted RJC in relaunching its DUI Court Compliance Program.

The development of the Specialty Courts Division has been a team effort, as many WCDA staff members brainstormed the current workflow for hundreds of specialty court cases that are active within the District Attorney's Office. Staff additionally utilize the WCDA case management system to track, analyze, and organize the complex procedures of the specialty court caseload and compile reports that provide useful statistical information for the office, such as the pass/fail rates for individual court programs. Their collaboration has produced fruitful results, as the Specialty Courts Division now boasts 840 participants in 2019.



The Honorable Jerome Polaha presides over a specialty court proceeding.

Furthermore, WCDA Specialty Courts prosecutors attend approximately 20,000 hearings every year across thirteen different specialty court programs in Washoe County's Limited and General Jurisdiction courts. Each prosecutor carries an approximate caseload of 550 cases at any given time. WCDA also has the capacity to accept cases from other jurisdictions—totaling 136 in 2018. WCDA has this capacity because Washoe County is the 'seat' of the Western Regional Drug Court. They therefore accept cases from the District Courts, which include jury trial level and general jurisdiction courts; other Northern Nevada counties by consent, to include Carson City, Lander, Storey, and others; and cases that are 'pushed up' from lower jurisdiction courts that are within Washoe County borders, such as Reno Municipal Court, Sparks Justice Court, and Reno Justice Court.

While the goal of the Washoe County District Attorney's Office continues to be that of seeking justice for victims and holding offenders accountable, the office recognizes that preventing future crimes and working with the courts and other stakeholders to provide youthful and non-violent low-level offenders with a path out of criminal life may ultimately be the best way to ensure the public's safety.