

constitutes the unjustifiable injury, maiming, mutilation or killing of an animal which is subject to misdemeanor criminal sanctions. Without question, the sport shooting of pigeons does not qualify as an experiment conducted for the advancement of science or medicine. Nor does this activity qualify as a governmentally approved pest control project.

Sport shooting of nonmigratory game pigeons is likewise unrecognized as a hunting activity sanctioned by Nevada law. Only where pigeons which are not classified as migratory game birds are killed for use as food is the subject shooting activity outside the prohibition of the cruelty to animals statutes. The protections accorded to nongame birds by Nevada's cruelty to animals statute is consistent with the jurisprudence of the Western United States for nearly a century. *See, e.g., Waters v. People*, 46 P. 112, 113-115 (Colo. 1896). *See also Oregon Game Fowl Breeders Assoc. v. Smith*, 516 P.2d 499 (Ore. 1974). Consequently, should a local district attorney reasonably determine that pigeons are being subjected to unjustifiable injury or killing as discussed above, criminal prosecution of the violators would be appropriate under Nevada law.

Sincerely,

BRIAN MCKAY, *Attorney General*

By DAN R. REASER, *Deputy Attorney General*

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**OPINION NO. 85-3 County Clerks; Elections; Voter Registration—[NRS 293.530](#)(1) authorizes the use of all reliable and reasonable means to correct official voter registration lists. [NRS 293.540](#)(9) does not require that the county clerk give notice to persons whose voter registration is canceled pursuant to that subsection.**

CARSON CITY, March 14, 1985

THE HONORABLE WILLIAM A. MADDOX, *Carson City District Attorney*, 208 North Carson Street, Carson City, Nevada 89701-4298

DEAR MR. MADDOX:

You have requested our opinion concerning the Carson City Clerk's practice of correcting the voter registration list by cancellation of registration affidavits. The facts supplied to us with your request are summarized in the "analysis" portion of this opinion.

#### QUESTIONS

1. Are there any limits to the discretion exercised by the county clerk acting pursuant to [NRS 293.530](#) in correcting the official registration lists and determining whether a registered voter's current residence is other than that indicated on his affidavit of registration?
2. Is there any requirement that the county clerk give notice to persons whose voter registration is canceled in accord with [NRS 293.540](#)(9) based on information discovered by the clerk pursuant to [NRS 293.530](#)?

#### ANALYSIS

Following the 1984 general election the Carson City Clerk engaged in his usual practice of correcting the voter registration lists. You relate that the Carson City Clerk, acting pursuant to [NRS 293.530](#) and [293.540](#), exercised his right to correct the official voter registration lists to

reflect a voter's proper residence. One of the means by which the clerk accomplished this task was by use of information received on or with returned juror questionnaires.

You state that occasionally a juror questionnaire is returned with a note that states that the prospective juror no longer resides in Carson City, but now lives in Reno or some other location outside of Carson City. You indicate that when the Carson City Clerk receives this kind of information he exercises his rights pursuant to [NRS 293.530](#) and [293.540\(9\)](#) by canceling the affidavit of registration of that voter and correcting the official registration list to reflect this cancellation. You point out that neither [NRS 293.530](#) nor [NRS 293.540](#) require that notice be given to the registered voter prior to canceling that voters' registration affidavit and entering that cancellation on the official registration list. Based on the lack of any statutory requirement that notice be given, you have informed us that the Carson City Clerk does not give notice when cancellation is made pursuant to these two provisions of our election statutes.

The procedure outlined in the preceding paragraph sometimes results in a person discovering that he or she is no longer registered when he or she attempts to vote at the next election. This problem is occasionally complicated by the fact that some people are not residents of Carson City for purposes of serving on a jury, but as students or armed services personnel are nonetheless eligible to vote in Carson City by virtue of constitutional and statutory provisions. See Nev. [Const. art. 2, § 2](#) and [NRS 293.487](#) and [293.490](#). The problems outlined in this paragraph prompted your posing the two questions to us which are set out above.

The Carson City Clerk's statutory authorization to correct the official registration lists is contained in [NRS 293.530](#). That section provides:

1. County clerks *may use any reliable and reasonable means available to correct official registration lists* and determine whether a registered voter's current residence is other than that indicated on his affidavit of registration.
2. A county clerk *may, with the consent of the board of county commissioners, make investigations of registration in the county by house-to-house canvass, or by any other method.* (Emphasis added).

It is our opinion that the text of [NRS 293.530](#) supplies the resolution to your first question. When the language of a statute is plain, its meaning must be deduced from that language and we may not go beyond the language of the statute. See *Robert E. v. Justice Court*, [99 Nev. 443](#), 445, 664 P.2d 957 (1983) and *City of Las Vegas v. Macchiaverna*, [99 Nev. 256](#), 258, 661 P.2d 879 (1983).

The Carson City Clerk may use any reliable and reasonable means to correct the official registration list. Furthermore, the Carson City Clerk may, with the consent of the board of supervisors, make investigations of registration in Carson City by any method in addition to the two methods of census and canvass listed in [NRS 293.530\(2\)](#). When the Carson City Clerk uses the information contained in or noted on juror questionnaires to determine whether voter registration affidavits require cancellation and the official registration lists require correction, past experience should indicate to the clerk that while this information may be one reasonable means of determining whether a voter's current residence is other than that indicated on the affidavit of registration, it is not always reliable information, particularly with respect to armed services personnel and students. Consequently, the Carson City Clerk should consult other reasonable and reliable sources of information and, if necessary, conduct investigations, approved by the board of supervisors, to determine that the information contained in or noted on juror questionnaires reasonably and reliably indicates that a voter's current residence is other than that indicated on the affidavit of registration.

The language of [NRS 293.530](#) provides county clerks with great latitude in determining the sources of information from which to correct official registration lists. However, county clerks must use means that are reasonable *and* reliable as sources of this type of information. When

experience shows that a particular means of making this determination may be reasonable but not always reliable, the county clerk is required by [NRS 293.530](#) to develop other sources of information to insure reliability in the correction process. This may include having to secure approval for the investigation procedures authorized by [NRS 293.530\(2\)](#).

Chapter 293 of the Nevada Revised Statutes contains a comprehensive group of statutory provisions which pertain to the cancellation of a voter's registration affidavit. It is our opinion that examination of the text of these provisions supplies the answer to your second question. Our reading of the applicable provisions of Chapter 293 of the Nevada Revised Statutes leads us to conclude that no notice is statutorily required when cancellation of a voter's registration affidavit is made pursuant to [NRS 293.540\(9\)](#).

In Chapter 293 of the Nevada Revised Statutes the Legislature has required that certain notices be given when a voter's registration affidavit is canceled under particular circumstances. When an elector moves from one county to another in this State and registers to vote in the second county, the county clerk of the second county is required to give to the first county clerk notice to cancel the registration in that county. See [NRS 293.527](#). When a county clerk receives an affidavit from an elector or other reliable person which contains facts establishing the grounds for voter registration cancellation as contained in [NRS 293.535\(1\)\(a\)](#) to (c), inclusive, the county clerk is required to give notice to the voter for whom cancellation is sought in accord with the notice requirements contained in [NRS 293.535\(2\)](#). Finally, when a voter fails to vote in any general election which is grounds for cancellation of registration pursuant to [NRS 293.549\(8\)](#), the county clerk is required to give notice to the voter whose registration has been canceled in accord with the notice requirement contained in [NRS 293.545\(2\)](#). This listing of notice requirements is merely illustrative of the point that the Legislature has carefully specified when notice of cancellation of voter registration must be given.

When the Legislature has specifically listed particular circumstances in which some type of notice of cancellation is required, we think it is significant that in other circumstances cancellation of voter registration is authorized by statute, but no notice is required to be given. Correction of official registration lists in accord with [NRS 293.530\(1\)](#) and cancellation of voter registration pursuant to [NRS 293.549\(9\)](#) constitutes one of several circumstances when the cancellation of a voters' affidavit of registration may be performed by the county clerk and no statutory notice requirement is applicable. Presumably, the lack of a statutory notice requirement may be justified in this circumstance because this type of cancellation is based on the development of reliable information by the county clerk through the use of reasonable means and this information may, in certain instances, be augmented by information developed through an investigation conducted pursuant to [NRS 293.539\(2\)](#).

We are required to adopt a construction of statutes that will harmonize all parts of enactments passed by our Legislature. *Nevada State Dept. of Motor Vehicles v. Turner*, [89 Nev. 514](#), 517 P.2d 1265 (1973). The entire statutory scheme must be construed as a whole. *Acklin v. McCarthy*, [96 Nev. 520](#), 523, 612 P.2d 219 (1980). The provisions of the whole act must be construed in light of its purpose. *20th Century Hotel v. County of Clark*, [97 Nev. 155](#), 157, 625 P.2d 576 (1981). Consequently, the justification for the lack of a statutory notice requirement in the context of a voter registration cancellation made in accord with [NRS 293.530](#) and [293.549\(9\)](#) discussed in the preceding paragraph is not only plausible but gives proper effect to the distinctions made by the Legislature of when notice is required and when it is not. We are not permitted to "will" the law through statutory interpretation by requiring that notice be given when a cancellation is made pursuant to [NRS 293.549\(9\)](#). Our responsibility is to "discern" the law consistent with legislative intent. See *Mann v. State*, [96 Nev. 62](#), 65, 605 P.2d 209 (1980).

These cancellation of voters registration statutes balance the need for rules to test the qualifications of an elector against the prohibition of abridging a person's right to vote based on unreasonable, impartial and nonuniform requirements. See *Cirac v. Lander County*, [95 Nev. 723](#), 730, 602 P.2d 1012 (1979). We cannot say that the distinctions drawn by the Legislature of

when notice is required and when it is not in the context of voter registration cancellation are unreasonable, impartial or lack uniformity.

#### CONCLUSION

The Carson City Clerk may use a wide variety of information sources to correct the official voter registration lists provided that the means of correction are reasonable and reliable within the meaning of [NRS 293.530\(1\)](#) and provided that the clerk uses approved investigation procedures authorized by [NRS 293.530\(2\)](#) when circumstances dictate that these procedures are warranted.

There is no statutory requirement that the Carson City Clerk give notice to persons whose voter registration is canceled in accord with [NRS 293.549\(9\)](#) based on information discovered by the clerk pursuant to [NRS 293.530](#).

Sincerely,

BRIAN MCKAY, *Attorney General*

By SCOTT W. DOYLE, *Deputy Attorney General*

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**OPINION NO. 85-4 Taxation—Deferred Property Taxes on Agricultural Lands—The filing of a final subdivision map is not a conversion to a higher use within the meaning of [NRS 361A.280](#).**

CARSON CITY, April 9, 1985

THOMAS F. RILEY, ESQ., *Chief Deputy District Attorney*, Office of the District Attorney, Washoe County Courthouse, P.O. Box 11130, Reno, Nevada 89520

DEAR MR. RILEY:

You have requested our opinion of the phrase “converted to a higher use” as the same appears in the first sentence of [NRS 361A.280](#) which deals with the collection of deferred property taxes on agricultural lands.

In your request, you have explained that Washoe County, among other counties in Nevada, is experiencing rapid growth and development. Much of the land which has received agricultural use assessment pursuant to [NRS Chapter 361A](#) is being subdivided. Some of the new subdivisions are at present only “paper subdivisions” awaiting the sale of lots and an actual physical change in character. Such “paper subdivisions” are still being assessed as agricultural lands until there is an actual, physical change of the property to a “higher use.” Because of this taxation practice, where property has received agricultural use assessment for seven or more years prior to recording a subdivision map, each additional year of agricultural assessment subsequent to the creation of a “paper subdivision” results in the dropping of one year’s deferred taxes pursuant to [NRS 361A.280](#).

You have included with your request your own legal analysis of this provision and your conclusion that the recording of a final subdivision map of land previously subject to agricultural use assessment is a “conversion to a higher use” because such recording allows immediate development of the land to a “higher use.”