

Roadside Memorial Policy Issues

Legal Considerations:

- NRS 408.423 requires a written permit from NDOT for placement of a memorial within a state right of way.
- NDOT cannot selectively enforce NRS 408.423, i.e., remove some memorials and leave others in place, since such action could violate the constitutional right of equal protection.
- If a memorial is considered to be a known hazard, it must be removed by NDOT.
- Allowing the placement of a religious symbol could arguably violate the establishment of religion clauses of the U.S. and Nevada constitutions.

Safety Considerations:

- People stopping at memorial locations could be in danger trying to get off and on the highway safely.
- People stopped at memorial locations could be in danger of being hit.
- If hit by a vehicle, some memorials could inflict serious damage.
- Memorials could create a distraction to motorists that might result in crashes.

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- *Option 1: Continue as we have historically*

Under this policy option, NDOT would not remove roadside memorials unless they represent a hazard or are inappropriate in size and design.

This option would not address the legal issues and may subject the State to litigation.

- *Option 2: Allow some form of standardized roadside memorial marker*

Under this policy option, a program would be established for NDOT to install a standardized roadside memorial marker for fatal traffic crashes at the request of the family.

This option would provide an alternative that could withstand legal and constitutional challenges and be part of a larger safety effort to draw attention to the need for safe driving.

- *Option 3: Do not allow any roadside memorials*

Under this policy option, NDOT would not allow any memorials on the right of way. They would be removed.

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Option 2: Allow some form of standardized roadside memorial marker: Potential guidelines

- Utilize standard Roadside Memorial Markers designed through public participation.
- Installed as close as practicable to the actual site of the fatal crash in a safe location.
- One roadside memorial marker per fatal crash.
- Roadside memorial markers would only be utilized for the loss of human life.
- A formal request by the family would initiate the installation of roadside memorial markers.
- Roadside memorial markers would be provided and installed by NDOT at no cost to the families.
- Roadside memorial markers would remain for 2 years (can remain for an additional 2 years if requested by the families).
- No other memorials would be allowed on the State right of way.
- If this policy option were adopted, existing roadside memorials at the location of fatal traffic crashes would be replaced with a standard roadside memorial marker where appropriate.

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Where do we go from here?

Comments generated from these public informational meetings and those received for a period of 2 weeks after the last meeting will be used to determine the policy NDOT selects.