

# Traffic Citations



**LAS VEGAS JUSTICE COURT**

# Traffic Violation Committed



- **NRS 484A.710 Authorizes an Arrest for Certain Offenses**
  - DUI Alcohol/Drugs
  - Fail to Stop w/Death/SBH/Property Damage
  - Reckless Driving
  - Driving with Suspended/Revoked/Cancelled License

# NRS 484A.710 Arrest without warrant for certain offenses



1. Any peace officer may, without a warrant, arrest a person if the officer has reasonable cause for believing that the person has committed any of the following offenses:
  - (a) Homicide by vehicle;
  - (b) A violation of [NRS 484C.110](#) or [484C.120](#);
  - (c) A violation of [NRS 484C.430](#);
  - (d) A violation of [NRS 484C.130](#);
  - (e) Failure to stop, give information or render reasonable assistance in the event of a crash resulting in death or personal injuries in violation of [NRS 484E.010](#) or [484E.030](#);
  - (f) Failure to stop or give information in the event of a crash resulting in damage to a vehicle or to other property legally upon or adjacent to a highway in violation of [NRS 484E.020](#) or [484E.040](#);
  - (g) Reckless driving;
  - (h) Driving a motor vehicle on a highway or on premises to which the public has access at a time when the person's driver's license has been cancelled, revoked or suspended; or
  - (i) Driving a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to the person pursuant to [NRS 483.490](#).
2. Whenever any person is arrested as authorized in this section, the person must be taken without unnecessary delay before the proper magistrate as specified in [NRS 484A.750](#), except that in the case of either of the offenses designated in paragraphs (f) and (g) of subsection 1, a peace officer has the same discretion as is provided in other cases in [NRS 484A.730](#).

# Appearance Before a Magistrate



- NRS 484A.720 and 484A.730 outline situations in which it is mandatory for an officer to bring the Defendant before a magistrate
  - Defendant demands
  - Defendant refuses to sign or accept citation
  - Insufficient proof of identity
  - DUI (Unless there is treatment for injuries)
  - Nonresident involved in a crash

# Immediately Brought Before Magistrate



484A.720 Whenever any person is halted by a peace officer for any violation of chapters 484A to 484E, inclusive, of NRS not amounting to a gross misdemeanor or felony, the person **shall be taken without unnecessary delay before the proper magistrate**, as specified in NRS 484A.750, in either of the following cases:

1. When the person demands an immediate appearance before a magistrate; or
2. In any other event when the person is issued a traffic citation by an authorized person and refuses to sign or accept a copy of the traffic citation.

# Issues



- What is intended by “immediately brought before a magistrate” or “without unnecessary delay”?
  - Magistrates are not available 24/7
  - Is case to be heard on walk-in basis?
  - What is intended to happen when brought before the magistrate? Arraignment? Order to appear at future date?
  - Why does the defendant get to “demand” to be heard and dictate the Court’s calendar?
  - Is this process intended to be different than an arrest?

# Citations



- Every traffic violation where there is no arrest or transport to see the magistrate is issued a citation
- Signed by Defendant as a promise to appear or “served” by officer if refusal to sign
  - NHP Interpretation of Recent Legislative Change
- Form of the Citation
  - Electronic
    - ✦ Approx. 1 week for data entry into the system
  - Handwritten
    - ✦ Approx. 6-8 weeks for data entry into the system
      - Delay in processing affects collection efforts due to stale information

# LVJC Procedures



- Defendants who are taken into custody for purpose of bringing before a magistrate are taken to CCDC
  - Booked on Traffic Offense
  - Bail Set by Bail Schedule
  - Pursuant to Administrative Order Granted OR Release and Given Notice of Appearance Date
    - ✦ Unless Uncooperative or Combative or Held on Other Matters
  - Even if Held, No Probable Cause Review Completed
  - Maximum Stay 48 Hours
  - Practically Speaking Bail Rarely Posted



# Prior to Appearance Date (LVJC Procedures)



- Defendant May Contact Court Regarding Ticket
- Given Standard Fine Amount
- May Pay in Full as a Convenience in Lieu of Compliance with Notice/Promise to Appear
  - Online
  - IVR
  - Traffic Window
- All Monies Paid are Posted as Cash Bail and Subsequently Forfeit
- No Plea Taken
- Reported as Conviction per NRS 484A.680(3)

# Disposition by Forfeiture of Bail



- NRS 484A.680(3)

3. Upon the filing of the original or a copy of the traffic citation with a court having jurisdiction over the alleged offense or with its traffic violations bureau, the traffic citation may be disposed of only by trial in that court or other official action by a judge of that court, including forfeiture of the bail, or by the deposit of sufficient bail with, or payment of a fine to, the traffic violations bureau by the person to whom the traffic citation has been issued by the peace officer.

# Failure to Appear



- NRS 484A.670 authorizes a warrant to issue for a Defendant's failure to appear:
  1. Regardless of the disposition of the charge for which a traffic citation was originally issued, it is unlawful for a person to:
    - (a) Violate a written promise to appear in court given to a peace officer upon the issuance of a traffic citation by the peace officer; or
    - (b) Fail to appear at the time and place set forth in a notice to appear in court that is contained in a traffic citation prepared by a peace officer.
  2. Except as otherwise provided in this subsection, a person may comply with a written promise to appear in court or a notice to appear in court by an appearance by counsel. A person who has been convicted of two or more moving traffic violations in unrelated incidents within a 12-month period and is subsequently arrested or issued a citation within that 12-month period shall appear personally in court with or without counsel.
  3. **A warrant may issue** upon a violation of a written promise to appear in court or a failure to appear at the time and place set forth in a notice to appear in court.
- LVJC Issues a Warning Prior to Issuing Warrant – 14 Days
- A \$150 Bench Warrant Fee is Assessed
- Warrant Issued with Bail Set at Fine Amount for the Charged Offense + \$150 BW Fee
- After 49 Days the Case is Sent to Collections and Collection Fee Assessed

# Arrest



- 1<sup>st</sup> BW – Given an Immediate Administrative OR and a 30 day return to court date
- 2<sup>nd</sup> BW or more – Brought before the magistrate
  - LVJC currently utilizes a Referee pursuant to NRS 4.355
- Average of 30 BW Hearings/Day

# Breakdown of Total Open Citations By Count



	<b>Traffic Counts</b>	<b>Balance</b>
Warrant	187,176	\$163,917,864.69
Not in Warrant	143,132	\$69,156,710.46
Total	330,308	\$233,074,575.15

- Current as of December 20, 2017
- The balance is the potential revenue of the uncollected traffic counts

# Active Warrants Issued by Fiscal Year



Fiscal Year	Traffic Counts	Balance
2009	2,012	\$4,457,445.65
2010	5,122	\$7,997,587.69
2011	59,175	\$51,835,758.90
2012	20,170	\$18,666,063.01
2013	18,612	\$14,800,447.53
2014	9,619	\$7,733,042.01
2015	11,671	\$9,534,070.64
2016	15,355	\$12,453,112.05
2017	24,614	\$20,123,350.69
2018	20,826	\$16,316,986.52
Total	187,176	\$163,917,864.69

# Warrants Recalled by Fiscal Year

Fiscal Year	Traffic Counts
2008	33,168
2009	32,606
2010	33,456
2011	75,461
2012	132,433
2013	87,922
2014	75,812
2015	68,056
2016	70,777
2017	76,474
2018	35,263
Total	721,428

- Reasons for a warrant recall
  - Contact with court
  - Payment
  - Deemed uncollectable after a certain age
- 2012 has a higher number of recalled warrants due to a cleanup project by the courts

# Costs Associated With Warrants

## ➤ Average Time From Booking to Release on Bench Warrant

○ 60 Hours

FY	# of BW Hearings	Potential Revenue	CTS Amount	Days In Custody	Jail Cost*
13	15,699	\$14,339,020	\$12,783,652	39,248	\$5,887,200
14	14,078	\$13,035,152	\$11,329,137	35,195	\$5,279,250
15	10,773	\$10,719,782	\$8,907,327	26,933	\$4,039,950
16	10,553	\$11,322,143	\$8,149,073	26,383	\$3,957,450
17	11,235	\$13,122,902	\$8,978,377	28,085	\$4,212,750
18	5,619	\$6,784,584	\$4,631,410	14,048	\$2,107,125

\*Based on an estimated \$150/day jail cost



# Warrants Issued: Non Appearance vs. Fail to Pay

## Non Appearance

Fiscal Year	Traffic Counts
2009	438
2010	1,436
2011	180,086*
2012	46,709
2013	36,191
2014	26,510
2015	26,768
2016	29,001
2017	32,432
2018	14,988
Total	394,559

## Failure to Meet Payment Obligation

Fiscal Year	Traffic Counts
2009	1,628
2010	4,625
2011	63,034
2012	32,044
2013	37,884
2014	23,639
2015	24,129
2016	25,674
2017	30,432
2018	14,406
Total	257,495

\*This figure is inflated due to inability in prior years to enter warrants into statewide system electronically due to IT issues.

# Collection of Fines/Fees



- NRS 176.064

2. A **state or local entity** that is responsible for collecting a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take any or all of the following actions:

(a) Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.

(b) Request that the court take appropriate action pursuant to subsection 3.

(c) Contract with a collection agency licensed pursuant to [NRS 649.075](#) to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 1, in accordance with the provisions of the contract.

# Collection of Fines/Fees



- Clark County contracts with Harris & Harris for collection efforts
- Within that contract is a provision where Harris & Harris will report the delinquency to credit agencies
- Obstacles to Collection:
  - Collection of information sufficient to locate defendant
  - Making contact with defendant
  - Court pulling the case out of collections

# Collection of Fines/Fees



- NRS 176.064

3. The **court may**, on its own motion or at the request of a state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution, take any or all of the following actions, **in the following order of priority if practicable**:

(a) Enter a civil judgment for the amount due in favor of the state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution. A civil judgment entered pursuant to this paragraph may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money rendered in a civil action. If the court has entered a civil judgment pursuant to this paragraph and the person against whom the judgment is entered is not indigent and has not satisfied the judgment within the time established by the court, the person may be dealt with as for **contempt of court**.

# Contempt of Court



**NRS 22.030 Summary punishment of contempt committed in immediate view and presence of court; affidavit or statement to be filed when contempt committed outside immediate view and presence of court; disqualification of judge.**

...

2. If a contempt is not committed in the immediate view and presence of the court or judge at chambers, **an affidavit** must be presented to the court or judge of the facts constituting the contempt, or a statement of the facts by the masters or arbitrators.

3. Except as otherwise provided in this subsection, if a contempt is not committed in the immediate view and presence of the court, the judge of the court in whose contempt the person is alleged to be shall not preside at the trial of the contempt over the objection of the person.

...

**NRS 22.040 Issuance of warrants of attachment and commitment.** When the contempt is not committed in the immediate view and presence of the court or judge, a **warrant of attachment** may be issued to bring the person charged to answer, or, without a previous arrest, **a warrant of commitment may, upon notice, or upon an order to show cause, be granted**; and no warrant of commitment shall be issued without such previous attachment to answer, or such notice or order to show cause.

**NRS 22.050 Amount of bail may be fixed by endorsement on warrant of attachment.** Whenever a warrant of attachment is issued pursuant to this chapter, the court or judge shall direct, by an endorsement on such warrant, that the person charged may be let to bail for his or her appearance, in an amount to be specified in such endorsement.

# Collection of Fines/Fees



- NRS 176.064

(b) Request that a **prosecuting attorney** undertake collection of the delinquency, including, without limitation, the original amount of the civil judgment entered pursuant to paragraph (a) and the collection fee, by attachment or garnishment of the defendant's property, wages or other money receivable.

- There is no manpower in the DA's office to undertake collection efforts
- Recommendation: Allow a civil judgment to be collected via contract with collection agency

# Collection of Fines/Fees



- NRS 176.064

(c) Order the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of the defendant's driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles **shall report a suspension pursuant to this paragraph to an insurance company** or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

- Recommendation: Move this up to (a) in the priority listing

# Collection of Fines/Fees



- NRS 176.064
  - (d) For a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in [NRS 176.065](#) and [176.075](#).
- The court may order the person to be confined for an additional period of 1 day for each \$75 of the amount until satisfied
- Does not apply to indigent persons
  - No definition of indigent and no means of gathering data to determine



# Collection of Fines/Fees



- **Recommendations**

- Clarify existing statutes

- ✦ Is the Order of Confinement intended to be in addition to or instead of a “bench warrant”
- ✦ Require a cash bail setting in the amount of the delinquency to allow a defendant to pay in full to get released

- Increase the \$75 credit to the cost of housing

- Recognize these are low level offenders and likely to be immediately released by jail to house arrest

- Authorize the Court to access records pertaining to a Defendant’s ability to pay (TANF, Food Stamps, unemployment, etc) and verification of information

# First Party Collections

- LVJC Forwards Cases to an Outside Vender for Collections 49 Days After a Defendant's Failure to Meet Financial Obligation
  - 14 Day Late Notice is Sent First
- First Party Collection Efforts For 120 Days then Sent to Third Party Collections
- Program Began Feb 2016
- Outstanding Revenue Assigned
  - \$89,204,101
- Total Collected to Date
  - \$4,903,067 (5.5%)
- Total Commissions Retained
  - \$355,520
- Total Amount Cancelled
  - \$70,253,810 (78.8%)
  - Reasons Include
    - ✦ Sent to Third Party Collections
    - ✦ Appearance in Court
    - ✦ Waiver
- Total Outstanding/Working
  - \$14,047,224

# Third Party Collections

- LVJC Forwards Cases to an Outside Vender for Collections 49 Days After a Defendant's Failure to Meet Financial Obligation
  - 14 Day Late Notice is Sent First
- First Party Collection Efforts For 120 Days then Sent to Third Party Collections
- Program Began Feb 2016
- Outstanding Revenue Assigned
  - \$230,156,373
- Total Collected to Date
  - \$5,768,366 (2.5%)
- Total Commissions Retained
  - \$453,805
- Total Amount Cancelled
  - \$36,709,374 (16%)
  - Reasons Include
    - ✦ Appearance in Court
    - ✦ Waiver
- Total Outstanding/Working
  - \$187,678,633

# Money Collected by Fiscal Year



- **FY 2014**
  - \$32,780,022.55
- **FY 2015**
  - \$29,893,210.51
- **FY 2016**
  - \$29,442,275.04
- **FY 2017**
  - \$32,864,653.79

# Points



- **NRS 483.448 and 483.475 – DMV Demerit Points**
  - Notify Driver when 3 or more points accumulated
  - 3 points can be cancelled by taking a traffic school approved by DMV
  - Does not apply when traffic school was required pursuant to plea agreement.
- **Issues**
  - DMV and Court systems don't speak to each other
  - Points drive the negotiations

# Timeline



- Arrest/Citation
- Time to Court Appearance
  - Average of 90 Days
- If Not Guilty Plea – Sent to Pretrial Conference w/DA
  - 5 Months Out
  - 100 per session/Twice a month
- If Unresolved – Set for Trial
  - 3 Months Out
- Delays Due to Processing and FTAs Have a Significant Impact on the Ability to Collect Due to Stale Information