



Las Vegas Justice Court

Regional Justice Center
200 Lewis Avenue 2nd Floor • Box 552511 • Las Vegas NV 89155-2511

TO: Bryan Fernley, Senior Principal Deputy Legislative Counsel

FROM: Kim Kampling, Court Administrator/Deputy Clerk

SUBJECT: Response to Information Request from the Committee to Study the
Advisability and Feasibility of Treating Certain Traffic and Related
Violations as Civil Infractions

DATE: August 3, 2018

I am writing in response to your letter dated July 2, 2018. Enclosed you will find the requested information and related attachments. Should you have any questions please do not hesitate to contact me directly.

Summary of Information Requested and Court Response:

1. Total money assessed and collected for traffic fines, excluding administrative fees and bail forfeitures and amount remitted to State Treasury pursuant to NRS 176.265.
Assessed
Based on the limitations of our case management system, I cannot provide the total money assessed.
Collected
We are still working on this amount
2. Summary of fees (name, purpose, amount, legal authority), other than Administrative Assessments, charged in relation to traffic offenses, excluding administrative assessment fees and a breakdown of revenue collected for each fee type in FY2016 and FY2017 and the order in which partial payments are applied to each fee.
Warrant Administration Fee. This fee is assessed when a case goes into warrant as a result of a failure to pay or failure to appear. The purpose of the fee is to recoup some of the cost associated with traffic warrants, such as staff time. The amount of this fee is \$150.00. The Court has inherent authority to impose this fee, see *Blackjack Bonding v. City of Las Vegas Mun. Court (2000)*. In FY2016, \$6,748,116.27 was charged, \$2,201,670.97 in payments was collected and \$1,790,582.48 was credited. In FY2017, \$8,771,517.26 was charged, \$2,760,719.75 in payments was collected and \$1,995,862.61 was credited.

* See attached for the Fee Code priority



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Compliance Fee. This fee is often referred to as a collection fee. The purpose of the fee is to recoup some of the cost associated with sending a case to collections, such as staff time. The amount of this fee is \$100.00. The Court has inherent authority to impose this fee, see *Blackjack Bonding v. City of Las Vegas Mun. Court (2000)*. In 2016, \$4,018,613.89 was charged, \$1,128,632.64 in payments was collected and \$1,056,843.82 was credited. In FY 2017, \$4,657,939.82 was charged, \$1,455,761.10 in payments was collected and \$1,258,955.70 was credited.

* See attached for the Fee Code priority

Traffic Court Fee Level 1. The purpose of the fee is to allow defendants the convenience of paying a fee to the Court in lieu of paying for and completing a five-hour traffic school class via a third-party to obtain the benefit of a demerit point reduction. The amount of the fee is \$100.00. The Court has inherent authority to impose this fee, see *Blackjack Bonding v. City of Las Vegas Mun. Court (2000)*. In 2016, \$2,044,542.34 was charged, \$1,972,620.01 in payments was collected and \$23,703.00 was credited. In FY 2017, \$2,431,033.73 was charged, \$2,202,830.99 in payments was collected and \$38,119.31 was credited.

* See attached for the Fee Code priority

Traffic Court Fee Level 2. The purpose of the fee is to allow defendants the convenience of paying a fee to the Court in lieu of paying for and completing an eight-hour traffic school class via a third-party to obtain the benefit of a demerit point reduction. The amount of the fee is \$200.00. The Court has inherent authority to impose this fee, see *Blackjack Bonding v. City of Las Vegas Mun. Court (2000)*. In 2016, \$246,483.00 was charged, \$236,058.00 in payments was collected and \$4,300.00 was credited. In FY 2017, \$322,635.00 was charged, \$274,692.00 in payments was collected and \$11,198.00 was credited.

* See attached for the Fee Code priority

Payment Plan Transaction Fee. The purpose of this fee is to allow defendants to obtain the benefit of paying their total amount due in installments payments over the course of several months rather than being required to pay in full by the specified due date. The amount of the fee is \$50.00. The Court has inherent authority to impose this fee, see *Blackjack Bonding v. City of Las Vegas Mun. Court (2000)*. In 2016, \$559,021.06 was charged, \$493,564.85 in payments was collected and \$11,475.22 was credited. In FY 2017, \$549,455.58 was charged, \$503,994.08 in payments was collected and \$13,981.00 was credited.

* See attached for the Fee Code priority

3. Revenue collected from bail forfeitures for traffic offenses in FY2016 and FY2017. Governmental entity/entities funds were deposited and remitted to.



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FY2016

County Forfeiture – Cash \$12,366,050.16

County Forfeiture – Bond \$3,488.00

Remitted to the following entity: Unknown

Deposited to the following fund: Unknown

FY2017

County Forfeiture – Cash \$14,063,613.78

County Forfeiture – Bond \$9,900.00

Remitted to the following entity: Unknown

Deposited to the following fund: Unknown

4. Copy of any fine and/or bail schedule that was created internally or provided by a district or city attorney's office for traffic offenses, providing guidance on fine amount.
Attachment 1: Memorandum and matrixes for moving and non-moving violations provided by the Clark County District Attorney's Office.
5. Name of outside collection agency/agencies utilized by court, county or city in FY2016 and FY2017.
Harris & Harris, Ltd.
6. Does the Court and/or collection agency distinguish between first party and third-party collections?
Yes, the Las Vegas Justice Court and Harris & Harris, Ltd. distinguish between first party collections and third party collections. At 49 days delinquent, cases are sent to first party collections. At 121 days delinquent, cases are sent to 3rd party collections.
7. Internal collection rate for fines/fees assessed over the last 5 fiscal years and collection rate for in first party collections and in third party collections.
2013, 2014 and 2015 10.9%
2016, 2017 and 2018 – Still working on this information
8. Does your court conduct an assessment at any point to determine whether a fine is uncollectible such that the fine may be cancelled pursuant to NRS 176.059(3)? If yes, what criteria is used to make the determination.
No, the Las Vegas Justice Court does not presently conduct such an assessment. The last such assessment was conducted in 2011. Several citations were dismissed pursuant to Administrative Order 11-02. The criteria used to make this determination were: 1) Every reasonable effort had been made to locate the



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defendant; and 2) No contact had been made with the defendant in over five years.

9. Does your court allow defendants to pay in installments? If so, what criteria does your court use to determine whether the amount due is "within the defendant's present ability to pay"?

Yes, the Las Vegas Justice Court allows defendants to pay in installments. Presently, there are no pre-set criteria to determine a defendant's present ability to pay. Defendants requesting to pay in installments are permitted to do so, however, a \$50.00 payment plan transaction fee is added to the total balance. The payment plan fee may be waived at the discretion of the Traffic Referee or Judicial Officer. At their first appearance, defendants are asked about their ability to pay. Defendants are subsequently provided options such as a payment plan, additional time to pay and/or community service options as deemed appropriate by the judicial officer.

10. Does your court charge a fee to enter into a payment plan? If so, what is the amount of the fee, is the fee imposed per case or per offense?

Yes, the Las Vegas Justice Court charges a fee to enter into a payment plan. The amount of the fee is \$50.00. No, the fee is not imposed per case or per offense. The fee is imposed per payment plan. The fee may be waived at the discretions of the Traffic Referee or Judicial Officer. If a defendant acquires new charges and wishes to have those charges added to an existing payment plan, an additional \$50.00 payment plan transaction fee is charged. This is because the existing payment plan is dissolved and a new plan is established. Similarly, if a defendant defaults while on a payment plan, the payment plan is dissolved. If the defendant then wishes to reestablish a payment plan, there is an additional \$50.00 payment plan transaction fee for the new plan.

11. How much money is credited for each hour of community service performed? Does your court require court authorization before a defendant may perform community service to satisfy traffic fines/fees?

The Las Vegas Justice Court credits community service at a rate of \$10 per hour. Yes, the Court requires defendants obtain authorization prior to performing community service to satisfy traffic fines/fees. While authorization is required and must be noted in the case, the Court affords all defendants the opportunity to complete community service in lieu of the fine upon request.



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12. How much money is credited towards traffic fines/fees for each day of incarceration? Does your court make a determination as to whether the defendant is indigent before imposing any incarceration in lieu of payment? If so, what criteria are used to determine whether a defendant is indigent?

The Las Vegas Justice Court credits \$75 towards traffic fines/fees for each day of incarceration. In traffic court, incarceration is never *imposed* in lieu of payment. Defendants who receive credit for time served are either in custody on a traffic warrant and/or on other charges. The Traffic Referee/Judicial Officer gives credit for any time already served; he does not *impose* additional jail time in lieu of payment.

It should be noted that there are rare instances where a defendant expresses an unwillingness to pay as ordered or specifically requests incarceration in lieu of payment. These matters are generally referred to the Chief Judge for review and heard in one of the criminal judicial departments. The following criteria are used to determine indigence in the Criminal Division: income, public assistance received, household composition.

13. Does your court distinguish between warrants issued for failure to appear and failure to pay? Does your court consider a failure to make a payment when due as a failure to make an appearance? Does your court consider a failure to make a payment when due as a failure to pay? How many warrants were issued over the last two fiscal years (FY16 and FY17) for failure to appear? How many warrants were issued over the past two fiscal years (FY16 and FY17) for failure to pay?

No, the Las Vegas Justice Court does not currently distinguish between failure to pay and failure to appear. Yes, failure to make a payment is treated the same as a failure to appear. In FY2016, a total of 54,805 warrants were issued. Of those, approximately 29,001 were identified as haven been issued for failure to appear and approximately 25,674 were identified as having been issued for failure to meet a payment obligation. In FY2017, a total of 63,139 warrants were issued. Of those, approximately 32,432 were identified as haven been issued for failure to appear whereas about 30,432 were identified as haven been issued for failure to meet a payment obligation. Please note that because the court does not currently differentiate between a failure to appear and a failure to pay, the numbers on warrants issued for failure to pay versus failure to appear are not precise.

14. Do the judges in your court engage in ex parte settlement discussion with defendants and/or their attorneys as permitted under Judicial Ethics Opinion JE 15-003 (2015)? If so, please provide a copy of any traffic settlement matrices provided to your judges by the prosecuting agency.



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Yes. Copy of memorandum dated December 22, 2015 from the District Attorney's Office and Traffic Citation Matrix for Moving Violations and Non-Moving Violations are enclosed.

15. Does your court or do your judges believe there is an unreasonable delay between the time a traffic citation is issued to an offender and the time the citing agency provides the citation to the court? If so, do you have a suggestion as to how quickly those citations should be transmitted to the court?

Yes, with regard to handwritten citations. While electronic citations are generally in the court's system within one to two weeks, handwritten citations can take anywhere from six to eight weeks to appear. The delay is extremely inconvenient for many defendants, particularly for those who are transient.

The Court does not attribute the delay to the citing agency, but rather to the additional work that goes into processing a handwritten traffic citation. There is quality control, transfer of information and data entry involved. Since this is all necessary, there are no suggestions with regard to transmitting that information to the court any faster. Ideally, courts will see less and less handwritten citations as more officers become equipped with electronic citation machines.

16. Does your court have a contract with a collection agency to collect unpaid fines, fees and administrative assessments? If so, please provide a copy of the contract.

Yes, there is a contract with Harris & Harris Ltd. A copy of the contract is enclosed.

17. Please provide the name and contact information of a person that the Committee may contact with follow-up questions.

Elizabeth Cota
Court Division Administrator, Traffic
Las Vegas Justice Court
(702) 671-3421
Elizabeth.Cota@ClarkCountyNV.gov