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M E M O R A N D U M

TO JUSTICES OF THE PEACE, LAS VEGAS TOWNSHIP
JUSTICES OF THE PEACE, HENDERSON TOWNSHIP
JUSTICES OF THE PEACE, NORTH LAS VEGAS TOWNSHIP
JUSTICES OF THE PEACE, RURAL TOWNSHIPS

FROM CHRISTOPHER J. LALLI, Assistant District Attorney 

DATE December 22, 2015

SUBJECT STANDING COMMITTEE ON JUDICIAL ETHICS
Advisory Opinion No. JE15-003

As you are undoubtedly aware, the Standing Committee on Judicial Ethics recently issued an Advisory Opinion regarding judicial participation in the *ex parte* resolution of misdemeanor traffic citations.

This practice has occurred in Clark County for well over twenty years. It has, with few exceptions, worked well.

The conclusion of the Advisory Opinion was that the Code of Judicial Conduct does not prohibit a judge from participating in the *ex parte* resolution of misdemeanor traffic citations so long as (1) a district attorney prepares a specific matrix of settlement guidelines, (2) a district attorney authorizes a judge in writing to relay such settlement offers to a defendant or his or her counsel *ex parte*, and (3) the judge does not engage in any negotiation or substantive discussion regarding the settlement terms.

Consistent with the conclusion of the Advisory Opinion, and in order to maintain the practice that has existed in Clark County for so long, we hereby authorize you to participate in the *ex parte* resolution of misdemeanor traffic citations. To assist in that regard, we have prepared the enclosed Traffic Citation Matrix for Moving Violations and

Traffic Citation Matrix for Non-Moving Violations which are intended to be used as settlement guidelines in these cases.¹

These Matrices are to be used effective immediately and are intended to be applicable to all citations currently pending in the system, irrespective of issuance date. The rolling three-year period contained on the Traffic Citation Matrix for Moving Violations is intended to be calculated from the date of the citation in question looking backward. If there are statutory minimum sentences for particular offenses, the statutory reference is cited.

In addition to any proscribed fine set forth on the Matrices, Courts are free to add their own compliance, warrant, payment-plan, NSF, etc. fees as they deem appropriate.

Multiple violations contained on a single citation may be treated as one or multiple violations at the discretion of the Court. Where a defendant enters a plea of guilty or nolo to one charge, remaining charges may be dismissed at the discretion of the Court. In addition, if appropriate, a Court may impose an alternative sentence to a citation such as the Coroner's Visitation Program or, in the case of failure to restrain a child, a Child Restraint Class.

Community service may be imposed to defray the cost of a fine at the rate of \$10 per hour. Courts may also apply credit for time served for incarceration toward the amount of a fine at a rate of \$75 per day.

It is hoped that the Clark County District Attorney Traffic Matrices will achieve the same balance of justice the Clark County Justice Courts have been able to accomplish over the past twenty years. Please do not hesitate to contact us should you have any questions or concerns regarding this matter.

¹ It should be noted that we specifically *do not* authorize you to participate in the *ex parte* resolution of non-traffic misdemeanor citations or submittals. According to the Opinion,

The Committee believes *ex parte* participation by a judge in substantive negotiations, where the judge has sole discretion to negotiate and accept settlement offers without input or consent of the district attorney's office, is inconsistent with the Code of Judicial Conduct. When a judge has sole discretion to negotiate the terms of an participates in *ex parte* substantive settlement negotiations without input or consent of the district attorney's office, it is contrary to the principles of maintaining the independence, integrity and impartiality of the judiciary under Canon 1 and may lead to frequent disqualification contrary to Rule 2.6.