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ASSEMBLY JUDICIARY SUBCOMMITTEE

DATE: 2/6/03 EXHIBIT C1-14

SUBMITTED BY: Paul Townsend

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Legislative Building  
Carson City, Nevada

We have completed an audit of the Judicial Branch of Government. This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions. The results of our audit, including findings, conclusions, recommendations, and the Supreme Court's response, are included in this report.

We wish to express our appreciation to the justices, judges, and staff of the Supreme Court, and the district, justice, and municipal courts for their assistance during the audit.

Respectfully presented,

A handwritten signature in black ink, reading "Paul V. Townsend".

Paul V. Townsend, CPA  
Legislative Auditor

July 31, 2002  
Carson City, Nevada

STATE OF NEVADA  
JUDICIAL BRANCH OF GOVERNMENT  
ADMINISTRATIVE OVERSIGHT OF THE STATE COURT SYSTEM

AUDIT REPORT

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STATE OF NEVADA  
JUDICIAL BRANCH OF GOVERNMENT  
ADMINISTRATIVE OVERSIGHT OF THE STATE COURT SYSTEM

AUDIT REPORT

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# **EXECUTIVE SUMMARY**

## **JUDICIAL BRANCH OF GOVERNMENT ADMINISTRATIVE OVERSIGHT OF THE STATE COURT SYSTEM**

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### **Purpose**

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The purpose of this audit was to assess the accounting and financial management guidance provided by the Administrative Office of the Courts to the courts in the judicial branch, evaluate the collection practices used by the courts, and determine the collection rate for the courts. This audit covered the collection of fines and administrative assessments at district, justice, and municipal courts throughout Nevada. Nevada Highway Patrol citations issued between April 1, 2000 and March 31, 2001, and criminal cases filed in calendar year 2000, were reviewed.

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### **Results in Brief**

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The Administrative Office of the Courts has improved its guidance to the courts on accounting, financial management, and internal controls since our 1995 audit. However, internal control weaknesses persist throughout the court system. Strong internal controls help reduce the risk of embezzlement. Since the release of our 1995 audit, embezzlements have been detected at four courts totaling more than \$90,000. In addition, strong internal controls help detect errors and ensure information generated by the courts is reliable, improving accountability.

Collection rates for fines and administrative assessments at district, justice, and municipal courts improved from those reported in our 1995 audit. However, this improvement was not consistent across the courts reviewed, and some courts continue to have difficulty with collections. As a result, enforcement of penalties is not consistent across the State. In addition, low collection rates result in less revenue flowing into the court system and to state and local governments.

## **EXECUTIVE SUMMARY**

### **JUDICIAL BRANCH OF GOVERNMENT ADMINISTRATIVE OVERSIGHT OF THE STATE COURT SYSTEM**

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## **Principal Findings**

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- Although improvements have been made since our 1995 audit, internal control weaknesses persist throughout the court system. Twenty of 26 district, justice and municipal courts examined lacked an appropriate segregation of duties among staff. In addition, 11 of 24 justice and municipal courts did not have written policies and procedures to guide staff, and 8 of 24 justice and municipal courts did not reconcile deposits made to payments received or had ineffective reconciliation procedures. Since the release of our 1995 audit, embezzlements totaling more than \$90,000 have been found at three justice courts and one district court. Weak internal controls provide opportunities for such crimes to occur. (page 9)
- Basic financial information was not readily available from a number of courts responding to our survey. For example, 80% of the district, justice, and municipal courts responding to our survey reported they do not produce accounts receivable reports. Forty percent of survey respondents either did not report amounts collected, estimated amounts collected, or did not report how fines and administrative assessments were distributed. (page 11)
- This audit found the overall collection rate at the justice and municipal courts to be 81%, up from the 63% reported in 1995. However, 6 of the 23 justice and municipal courts we reviewed had collection rates of less than 75%, with 3 of those courts experiencing collection rates of less than 55%. (page 13)

## **EXECUTIVE SUMMARY**

### **JUDICIAL BRANCH OF GOVERNMENT ADMINISTRATIVE OVERSIGHT OF THE STATE COURT SYSTEM**

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- Collection actions taken by the justice and municipal courts reviewed were untimely. The first collection action was taken on average 45 days after a court date or payment was due, but ranged up to 316 days. Collection actions are generally more successful when taken within 30 days. (page 14)
- Collection rates at the court system's two largest district courts improved from our 1995 audit, but they remain poor. The rate of collection of fines and administrative assessments for criminal cases tested at the two courts was about 23%. In 1995, the district courts collected only 13% of the fines and administrative assessments in our sample. Testing found no evidence of collection or enforcement actions taken against those offenders who failed to comply with the terms of their sentences. Instead, most district courts rely on the Department of Prisons and the Division of Parole and Probation to carry out and monitor an offender's compliance with court orders. (page 16)
- Bench warrants issued by courts to collect delinquent fines and administrative assessments have limited effectiveness and are more costly than other collection actions, like sending notices or using collection agencies. This is especially true for out-of-state offenders. Testing revealed 57% of the citations issued to out-of-state offenders when bench warrants were issued did not result in a payment. Bench warrants were more effective for in-state offenders, although 35% of those citations were not paid. (page 17)
- Justice and municipal courts remitted more than \$13 million in administrative assessments to the State in fiscal year 2001. However, the AOC has not established a process to reconcile the amounts of administrative assessments collected by justice and municipal courts for the State with the amounts



## **EXECUTIVE SUMMARY**

### **JUDICIAL BRANCH OF GOVERNMENT ADMINISTRATIVE OVERSIGHT OF THE STATE COURT SYSTEM**

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subsequently remitted to the State Controller. We found several problems with remittances, including a local treasurer not forwarding \$11,725 of assessments to the State, and three courts that incorrectly calculated the state's share of assessments. One reason for these errors may be that the form used by the courts to report assessment distribution has not been updated since 1991. (page 21)

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## **Recommendations**

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This report contains six recommendations for improving internal controls, financial management and collection practices within the judicial branch. Specifically, the Supreme Court should adopt revised minimum accounting standards and extend the standards' coverage to include district courts. The Administrative Office of the Courts (AOC) should develop standard collection methodologies recommended for use in the judicial branch, develop a policy covering the imposition of administrative assessments on bench warrant financial charges, and provide regular training to staff at all courts in the judicial branch. The AOC should also develop procedures for reconciling state fines and administrative assessments collected by justice and municipal courts with amounts subsequently transferred to the State, and work with the State Controller to develop appropriate forms for use by the courts in remitting administrative assessment revenues. (page 45)

## **EXECUTIVE SUMMARY**

### **JUDICIAL BRANCH OF GOVERNMENT ADMINISTRATIVE OVERSIGHT OF THE STATE COURT SYSTEM**

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## **Agency Response**

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This agency, in its response to our report, accepted all six recommendations. (page 41)

# Audit Highlights



Highlights of Legislative Auditor report on the Judicial Branch of Government, issued on September 10, 2002. Report # LA02-25.

## **Purpose of Audit**

The purpose of this audit was to assess the accounting and financial management guidance provided by the Administrative Office of the Courts to the courts in the judicial branch, evaluate the collection practices used by the courts, and determine the collection rate for the courts. This audit covered the collection of fines and administrative assessments at district, justice, and municipal courts throughout Nevada. Nevada Highway Patrol citations issued between April 1, 2000 and March 31, 2001, and criminal cases filed in calendar year 2000, were reviewed.

## **Audit Recommendations**

This report contained six recommendations for improving internal controls, financial management and collection practices within the judicial branch. Specifically, the Supreme Court should adopt revised minimum accounting standards and extend the standards' coverage to include district courts. The Administrative Office of the Courts (AOC) should develop standard collection methodologies recommended for use in the judicial branch, develop a policy covering the imposition of administrative assessments on bench warrant financial charges, and provide regular training to staff at all courts in the judicial branch. The AOC should also develop procedures for reconciling state fines and administrative assessments collected by justice and municipal courts with amounts subsequently transferred to the State, and work with the State Controller to develop appropriate forms for use by the courts in remitting administrative assessment revenues.

The Supreme Court and AOC accepted all six audit recommendations.

## **Status of Recommendations**

The AOC submitted its 60-day plan for corrective action on December 9, 2002. The plan indicates the AOC and Supreme Court have taken some action toward implementing the six recommendations. The plan also outlines the resources, including additional staff, to be requested to fully implement some of the recommendations. The six-month follow-up report on implementation of the recommendations is due June 9, 2003.

# Administrative Oversight of the State Court System

## Judicial Branch of Government

### **Results in Brief**

The Administrative Office of the Courts has improved its guidance to the courts on accounting, financial management, and internal controls since our 1995 audit. However, internal control weaknesses persist throughout the court system. Strong internal controls help reduce the risk of embezzlement. Since the release of our 1995 audit, embezzlements have been detected at four courts totaling more than \$90,000. In addition, strong internal controls help detect errors and ensure information generated by the courts is reliable, improving accountability.

Collection rates for fines and administrative assessments at district, justice, and municipal courts improved from those reported in our 1995 audit. However, this improvement was not consistent across the courts reviewed, and some courts continue to have difficulty with collections. As a result, enforcement of penalties is not consistent across the State. In addition, low collection rates result in less revenue flowing into the court system and to state and local governments.

### **Principal Findings**

Although improvements have been made since our 1995 audit, internal control weaknesses persist throughout the court system. Twenty of 26 district, justice and municipal courts examined lacked an appropriate segregation of duties among staff. In addition, 11 of 24 justice and municipal courts did not have written policies and procedures to guide staff, and 8 of 24 justice and municipal courts did not reconcile deposits made to payments received or had ineffective reconciliation procedures.

Basic financial information was not readily available from a number of courts responding to our survey. For example, 80% of the district, justice, and municipal courts responding to our survey reported they do not produce accounts receivable reports. Forty percent of survey respondents either did not report amounts collected, estimated amounts collected, or did not report how fines and administrative assessments were distributed.

This audit found the overall collection rate at the justice and municipal courts to be 81%, up from the 63% reported in 1995. However, 6 of the 23 justice and municipal courts we reviewed had collection rates of less than 75%, with 3 of those courts experiencing collection rates of less than 55%.

Collection actions taken by the justice and municipal courts reviewed were untimely. The first collection action was taken on average 45 days after a court date or payment was due, but ranged up to 316 days. Collection actions are generally more successful when taken within 30 days.

Collection rates at the court system's two largest district courts improved from our 1995 audit, but they remain poor. The rate of collection of fines and administrative assessments for criminal cases tested at the two courts was about 23%. In 1995, the district courts collected only 13% of the fines and administrative assessments in our sample. Testing found no evidence of collection or enforcement actions taken against those offenders who failed to comply with the terms of their sentences. Instead, most district courts rely on the Department of Prisons and the Division of Parole and Probation to carry out and monitor an offender's compliance with court orders.

Bench warrants issued by courts to collect delinquent fines and administrative assessments have limited effectiveness and are more costly than other collection actions, like sending notices or using collection agencies. This is especially true for out-of-state offenders. Testing revealed 57% of the citations issued to out-of-state offenders when bench warrants were issued did not result in a payment. Bench warrants were more effective for in-state offenders, although 35% of those citations were not paid.

SUPREME COURT OF NEVADA  
A. WILLIAM MAUPIN, CHIEF JUSTICE  
201 SOUTH CARSON STREET  
CARSON CITY, NEVADA 89701-4702



To: Assemblyman Joseph E. Dini, Jr., Chair  
Assemblyman John W. Marvel, Vice Chair  
Senator Mark Amodei  
Senator Joseph M. Neal, Jr.  
Assemblyman Morse Arberry, Jr.

From: A. William Maupin, Chief Justice, Supreme Court of Nevada  
Ron Titus, Executive Director, Administrative Office of the Courts

*aw*  
*RT*

Date: September 10, 2002

Re: Legislative audit

We appreciate the efforts of the Legislature, the Audit Subcommittee and the auditor, Paul Townsend and his staff whose professionalism and courtesy contributed to a positive working relationship with the courts and the AOC during the audit process. We support the recommendations enumerated in the report and have commenced the process of implementing the recommendations which are within the purview of the AOC and the supreme court and in making recommendations to the lower courts for the improvements which fall within their ambit.

While some recommendations may require additional staff and resources in order for implementation to occur, the AOC and the supreme court remain committed to improving practices related to the collection of fines and administrative assessments imposed by the general and limited jurisdiction courts of Nevada. Given budgetary and other limitations which might exist and which affect the operation of the lower courts, the AOC has already begun to plan for improved training of those personnel in the lower courts who are responsible for collecting court ordered assessments and fines. The purpose of this memorandum is to emphasize to the subcommittee and through it, to the legislature, that while we accept and support the audit recommendations, we wish to clarify any misconceptions regarding the authority of the supreme court to require specific practices within the lower courts. We also wish to point out some of the differences that exist among the various courts which account for differences in their abilities to collect assessments and fines. We also wish, in defense of all the courts, to emphasize the overall strength of the courts' contributions to the state in their collections practices.

Development of the corrective action plan for the audit recommendations must include the significant involvement and cooperation of the lower courts, the judges and their staff. The AOC has an excellent working relationship with the lower courts and assumes their interest and assistance in developing and implementing a plan.

While Article 6, section 19 of the Nevada Constitution states that the chief justice is the administrative head of the court system, this authority must be construed as broad in nature and not extending to the kind of direct day-to-day supervisory authority which would be expected within the context of a unified court system. Nevada, however, does not employ a unified court system. As you are aware, in Nevada, counties and municipalities fund the lower courts. As such, the lower courts' budgets are controlled by these entities. These lower courts depend upon their local legislative bodies to maintain an acceptable level of functionality. They must answer to their local legislative bodies for their spending practices. Their line item budget requests are subject solely to the approval of their funding sources. Therefore, in planning for the implementation of the legislative recommendations, the AOC and the supreme court must be cognizant of the fiscal realities facing the local courts and avoid making demands upon these courts which the local legislative bodies may not be inclined or be able to fund. The supreme court and the AOC work cooperatively with the lower courts in creating strategies and practices which will satisfy the concerns of the legislature while remaining sensitive to the undesirability of requirements, which might unreasonably burden these courts or have an onerous fiscal impact upon them. The supreme court and the AOC are hopeful and confident that the newly revitalized judicial council will assist greatly in this effort.

In addition, in an effort to obtain the cooperation and interest of all the courts, the AOC intends to circulate the audit report to all judges throughout the state, seeking their input as to workable and affordable solutions. This input will be incorporated into our implementation plan.

As pointed out in the audit, a dramatic difference exists between the historical collection rates of the district courts on the one hand and the justices and municipal courts on the other. Our implementation plan will account for these differences and will be constructed according to the needs and operations of each type of court. It is important to understand the fundamental differences between these courts, as these differences are not emphasized with particularity in the audit. Yet these differences explain why the district courts will never collect either the same amount or at the same percentage rate as the justices and municipal courts. The differences include the kinds of offenders appearing before each of these courts. Generally, law-abiding citizens with traffic tickets answer for their infractions in the justice and municipal courts. These citizens usually have the ability to pay the court-imposed fines and administrative assessments. In the district court, however, sanctions are imposed solely against those convicted of felonies and gross misdemeanors. Most of these offenders are indigent. Additionally, most of those who answer in the municipal and justice courts for their traffic infractions or other misdemeanors are only sentenced to pay fines and administrative assessments. In the district court, the offenders are either imprisoned, in which case their ability to pay a fine or assessment is generally curtailed by the realities of confinement, or they are placed on probation. If an offender is placed on probation, the administrative assessment which the court imposes competes for collection with

the other mandated financial responsibilities and penalties these indigent offenders are required to pay. These include court ordered restitution, monthly supervision fees, substance abuse counseling fees, psychological counseling fees, genetic marker testing fees, drug analysis assessments, drug testing fees, and the like. These many fees are extracted, if they can be, from offenders who often are unemployed or marginally employed. This marked difference between the clientele of the district courts and the limited jurisdiction courts must be recognized when assessing the feasibility of the district courts' abilities to collect the administrative assessment imposed in each case. Most administrative assessments imposed in the district court are difficult or impossible to ever collect.

In determining which practices and procedures ought to be employed by the district courts in attempting to collect the assessments, the reality of the collectability of the twenty-five dollar administrative assessments must be considered. One must also consider that the district court receives only five dollars as its portion of the administrative assessment. This may be too little of an amount for the court to justify to the county the costs associated with elaborate notification and tracking procedures for assessments it has little chance of ever collecting.

We would also mention that the audit states that the district court assesses a twenty-five dollar administrative assessment fee for each count of which an offender stands convicted. That, however, is not the practice in the district courts. In the district court, the administrative assessment is imposed per case and not per count. The audit also suggested that if the district courts aren't diligent in collecting the twenty-five dollar administrative assessment, then as a "direct consequence" of that failure, these offenders go unpunished. We would simply point out that many offenders are incarcerated for significant terms of years and those who are not incarcerated in prison are placed on probation. While on probation, these offenders lose various civil rights and sustain restrictions upon their freedom and are mandated to comply with strict reporting requirements as well as other terms of supervision. The direct consequences of a criminal conviction in Nevada are severe, whether or not an assessment is collected.

The audit report cannot address specifics concerning each individual court collection practice. The audit's generalization that "internal controls weaknesses persist throughout the court system" does not necessarily provide an accurate picture of the efforts of most of the Nevada courts. Our plan will ideally address these differences so we may accurately assess the strengths and weakness of each court. We will also take steps to provide the necessary guidance to those individual courts where the lack of internal controls "persist," so that good governmental accounting practices are followed. In defense of the lower courts in general, however, we would point out that during the audit's accounting period, fiscal years 1995 through early 2001, the lower courts collected in excess of \$65,000,000.00 in administrative assessments. The identified \$90,000.00 which was misappropriated during that same time period accounts for one-tenth of one percent of the sums which were collected.

The audit suggests that the AOC and the supreme court ought to resolve the differences in practice in the various justices and municipal courts in adding administrative assessments to bench warrants. This issue represents a justiciable question which the supreme court may ultimately resolve in the context of a contested case before it. Therefore it would be wholly inappropriate to provide what might be construed as definitive legal advice to the lower courts in

this discrete area. The AOC and the supreme court hope that this is one area in particular where the judicial council may be of assistance in bringing the lower courts together to reach consensus and uniformity in their practices. We will seek the aid of the judicial council for resolution by consensus.

Once again, we thank the subcommittee, the auditors and the legislature for their patience, cooperation and professionalism. We also appreciate the opportunity to clarify and emphasize those aspects of the body of the audit which we have mentioned here. As stated in our response to the audit, we envision a "judiciary strong in internal controls, collection practices and general financial management." We certainly support all efforts to achieve this desirable goal.

cc: Paul V. Townsend, Legislative Auditor