

Audit Committee

CLARK COUNTY, NEVADA

Michael Naft
Chair
William McCurdy II
Ross Miller

CALL TO ORDER

The public meeting of the Clark County Audit Committee was called to order by Commissioner Naft Wednesday, April 28, 2021 at 9:30am in the Pueblo Room, Clark County Government Center, 500 South Grand Central Parkway, 1st floor, Las Vegas, Nevada. This public meeting was properly noticed and posted.

COMMISSIONERS PRESENT:

Michael Naft
William McCurdy II
Ross Miller

ALSO PRESENT:

Angela M. Darragh, Audit Director
Les Lee Shell, Chief Administrative Officer
Jeff Wells, Assistant County Manager
Randy Tarr, Assistant County Manager
Kevin Schiller, Assistant County Manager
Christopher Lalli, Assistant District Attorney, Criminal Division
Steve Hampe, Boulder Constable
Steve Kilgore, Deputy, Boulder Constable
Nadia Hansen, Chief Information Officer
Dan Walker, Systems Program Supervisor, IT
Felix Luna, Principal Auditor
Christopher Hui, Information Systems Auditor
Anthony Manor, Commission Assistant

PARTICIPANTS VIA MICROSOFT TEAMS (VIRTUAL):

Melissa Saragossa, Chief Judge, Las Vegas Justice Court
Grissell Hernandez, Acting Court Administrator, Las Vegas Justice Court
April Thomas, Court Division Administrator, LVJC Neighborhood Justice Court
Joseph Gloria, Registrar of Voters, Elections

1. Approval of Minutes

It was moved by Commissioner Naft and carried unanimously that the minutes of January 27, 2021 meeting be approved.

2. Approval of Agenda

It was moved by Commissioner Naft and carried unanimously that the April 28th agenda be approved.

3. **Receive and discuss the first quarter CY 2021 audit reports.**

Restitution Payments

Restitution is payable directly to victims of crime and is collected by the justice courts or county in misdemeanor cases per Nevada Revised Statutes (NRS) 4.3755, or the State of Nevada's Division of Parole and Probation from parolees in felony and gross misdemeanor cases per NRS 176A.430. Victims of crimes can be individuals, businesses, or government agencies. In Clark County, no single entity is assigned the sole and primary responsibility of coordinating, receipting, and distributing restitution payments. Instead, the 11 Justice Courts and District Court in Clark County work with the District Attorney's Office to process restitution payment receipts – with the bulk of the work falling under the purview of the District Attorney's Office.

This audit was performed at the request of the District Attorney's Office after discovery of unprocessed restitution payments attributed to a former employee. The objectives were to:

- Assess the scope and impact of the former employee's failure to process restitution payments.
- Review the District Attorney's Office practices and procedures for managing criminal restitution payments to identify improvements and measure compliance with any applicable statutes or provisions for criminal restitution payments.
- Assess the propriety of having the District Attorney's Office process criminal restitution payments in light of the recently expanded Victim's Bill of Rights.

Overall, the District Attorney's Office, Bad Check Diversion Unit is receipting and forwarding criminal restitution payments in a timely and accurate manner. The Bad Check Diversion Unit is performing detailed due diligence to locate victims when payments are returned as undeliverable. Unprocessed restitution payments, which prompted the audit were all accounted for and were the result of an employee who failed to perform their duties, and not a result of fraud or misappropriation. We believe the Bad Check Diversion Unit implemented adequate controls to better monitor incoming restitution payments and reduce the risk of this event reoccurring. Weaknesses and concerns identified include:

- 1) Undeliverable restitution payments cannot be deposited into the Victim Assistance Account as required by NRS, and some payment instruments have now lost value.

Restitution payments are payable to victims in the form of certified funds. Because restitution payment instruments are only negotiable by the named payee, restitution payments cannot be deposited into the Victim Assistance fund when payments are undeliverable and the victim is not able to be located, as required by NRS.

When these payment instruments cannot be delivered, they remain in custody and can eventually become stale as the DA's office attempts to locate the victim.

The DA's office is in custody of 485 stale payment instruments where the payment cannot be delivered. These instruments have a total face value of \$255,345.

Some undeliverable payment instruments have either lost some or all of their face value and one or more of the following actions occurred:

- The purchaser received a refund from the issuing financial institution.
- The issuing financial institution escheated the payment funds to the State Treasurer where the instrument was purchased.
- The issuing County Court escheated to the State Treasurer or District Attorney.
- The payor's account was never withdrawn.
- In the case of United States Postal Service money orders, the instrument is still valid but the chances of locating the payee are very low.

Audit recommended that the DA's office require all restitution payments include the victim fund as an alternative payee on the restitution payment instruments; that they discuss and notify the Courts of that requirement and request they update their restitution payment postings accordingly and that policies be written that address how to handle any future claims for a previously undeliverable victim restitution payments.

Christopher Lalli, Assistant DA, reported that the DA's office agreed with the recommendations and corrective actions were implemented. Effective June 1, 2021, the DA's office will no longer accept restitution payments if alternative payees are not on them. Justice partners have been notified which should fully rectify this issue. Procedures have also been implemented regarding restitution for the undeliverable group in the future.

2) Countywide restitution payment process could be improved.

While the District Attorney's Bad Check Diversion Unit maintains a 95% success rate in delivering restitution payments to victims of crime, the Countywide restitution payment process could be improved in an effort to deliver a better customer experience, maintain public trust, improve financial management and improve adherence to Nevada's Victim Bill of Rights.

- There is currently no automated process for generating the restitution balance outstanding on a criminal case. Rather, a restitution balance is generated by manually comparing restitution ordered, per the case docket, with payments logged in the restitution application. The current process increases the risk of human calculation errors and can result in inaccurate information being reported to information users.
- Further, because cash and credit card restitution payments are not accepted by the DA's Office, defendants must obtain third party money orders or cashier checks outside of the court to make a restitution payment. We believe this creates a barrier for prompt payments and reduces customer service.
- Also, it appears to be a conflict of interest because the District Attorney Victim Witness account is the one that benefits from undeliverable restitution payments that the DA's office is in charge of delivering.
- Finally, compliance with Marsy's Law is dependent on manual controls. According to Marsy's Law, victim restitution is to be paid ahead of court fines and fees in accordance with the Nevada Constitution. We found that the courts have to rely on manual processes to determine whether restitution has been paid prior to accepting a fine/fee payment. During testing of 71 restitution payments received during the audit period, we found five instances where the judicial fee was paid ahead of the criminal restitution.

Audit recommended that the DA's office work with the Courts to transfer collection and delivery of the restitution back to the Court so that defendants have one place to pay fees and restitution. This will enable the Courts to track when collected funds should be applied to restitution or fees and when a case can be closed after all payments are made. The courts should forward unclaimed criminal restitution to the District Attorney Victim Witness Fund as required.

The DA and Las Vegas Justice Court are in the process of implementing corrective action with the goal of transitioning this function back to the Las Vegas Justice Court. Other issues discussed included the DA's due diligence and conflict of interest.

Chief Judge Melissa Sarragosa reported that the Las Vegas Justice Court anticipates taking over this function by September 2022 or sooner if possible pending the following:

- *Getting up to full staff.*
- *Reconciliation of imprest account.*
- *Develop the case financial manager (Odyssey).*

3) District Attorney's restitution application has limited capabilities.

The application performs well in logging restitution payments but has limited functionality beyond the log. There is no access logs or event monitoring and there is limited financial reporting. Should The DA's office remain in control of the restitution, we recommend that the DA confirm whether the application can be enhanced to meet Clark County Information Technology requirements and if not, submit a request for exception to the Clark County IT department.

The application has been modified and is now in compliance with Information Technology Directive #1.

4) Restitution payments pending processing should be logged and policies should be documented.

We found that the District Attorney's Bad Check Diversion Unit did not maintain a log of received payments that had not been processed into the restitution application. Without a log, it was not possible for management to identify whether received payments had indeed been processed. Upon notification, the Bad Check Unit implemented a log to document all received payments pending processing.

We also found that the Bad Check Diversion Unit has policies and procedures in place for handling restitution payments. While these policies and procedures are generally known among the staff, they are not documented.

Audit recommendation:

- Document policies and procedures for victim restitution payments as they relate to each specific job function and update as needed.
- Distribute updated policies and procedures to appropriate personnel.

Corrective action implemented. Policies have been put in place and distributed to staff.

The report was accepted by the Audit Committee.

Neighborhood Justice Center Follow Up

The Neighborhood Justice Center (NJC) conducts mediation and offers alternative conflict resolution services and training throughout Clark County. Their services include handling disputes between local businesses and customers, family members, neighbors, tenant and landlord, etc. The NJC was established in 1991 in accordance with NRS 244.1607. The court serves all of Clark County including Henderson and North Las Vegas.

The audit was conducted in accordance with the annual audit plan to follow up on the NJC report issued April 24, 2019. The objective was limited to determining whether corrective action was implemented for the audit findings reported in the original audit. NJC took adequate action to resolve all three findings:

- 1) Written policies and procedure were developed and distributed to staff.
- 2) New procedures were developed to enhance mediator effectiveness, including reviewing assignment logs and improved appointment reminders.
- 3) 36% of the cases sampled were mediated, compared to 24% in the original audit.

There are no recommendations as a result of this audit.

The report was accepted by the Audit Committee.

Boulder Constable Follow Up

The Boulder Constable's Office is one of 11 constable offices in Clark County. Nevada Constables are peace officers responsible for serving civil processes such as summonses and complaints, small claims, notices of evictions, notices of hearing, writs of garnishments and subpoenas. Constables are empowered with the authority of a peace officer by Nevada Revised Statute (NRS) Chapter 258. Constables are entitled to charge fees for their services and a percentage of collections for executions of writs as allowed by NRS 258.125. Fees range from \$2 to \$48.

This audit was conducted in accordance with the annual audit plan to follow up on the Boulder Constable's audit report issued July 24, 2019. The objective was limited to determining whether corrective action was implemented for the audit findings reported in the original audit. We found the Boulder Constable took adequate corrective action to resolve six of the seven findings in the report and partially resolved one finding. In response to the original audit, the Boulder Constable implemented the following:

- 1) Ended the practice of charging mileage on documents served through the mail.
- 2) Implemented new written policies and procedures indicating specific criteria for when a document service qualifies for the same location discount.
- 3) Lowered mileage fees to avoid overcharging.
- 4) Implemented procedures for reviewing bank reconciliations and voids.
- 5) Implemented procedures to monitor user access.

- 6) Implemented procedures to deposit and record payments when the garnishment cannot be sent out immediately.
- 7) Obtained a legal opinion supporting the use of non-deputized staff for limited services.
- 8) Implemented procedures to ensure all Oaths of Office are filed for new employees.

While the Constable now requires the reason for voided transactions, we did not find reasons documented for reversed receipts. This issue was discussed with the Constable and he agreed to inform staff to include documentation for all payment reversals.

Constable Hampe reported that the partially resolved finding on the audit log for payments has been resolved but might have been misrepresented. Reverse payments are logged into CourtView on the case documentation and the reason is noted for the reversal. (Audit will verify.)

The report was accepted by the Audit Committee.

Election Poll Book and Voter Registration Application

The Clark County Election department is responsible for planning, preparing and conducting all federal, state and municipal elections in Clark County. This includes elections in unincorporated Clark County, City of Las Vegas, City of Henderson, Boulder City, City of Mesquite and City of North Las Vegas.

The Election Department monitors every aspect of voting, including candidate filing, registering voters, printing ballots, maintaining voting machines, recruiting volunteers, training volunteers, and tabulating ballots. They also handle petition processing and manage electronic poll books for each election. The department provides an Early Voting Program and administers absentee/mail ballot voting in an effort to make voting more accessible. Lastly, the department is responsible for coordinating early voting and Election Day vote centers.

In 2018, the department implemented electronic poll book kiosks. These kiosks replaced traditional paper rosters at all voting sites. The kiosks allowed for the implementation of voting centers on Election Day, instead of traditional precinct-based polling places. The electronic pollbook kiosk allows poll workers at any site to look up and process any Clark County registered voter, no matter where they live or what their set precinct is.

This audit was part of the annual audit plan and the objective was to ensure the integrity, availability and confidentiality of the Election Department's electronic pollbook and voter registration applications. We also reviewed compliance with the applicable Nevada Revised Statutes pertaining to elections. The Audit period was from March 2018 through January 2020.

We believe that the Clark County Election Department adequately maintains the integrity, availability and confidentiality of the data within the electronic pollbook and voter registration databases. However, the following concerns and opportunities for improvement were identified:

- 1) Controls of database user credentials could be improved.

We found multiple staff members using the same login credentials which reduces accountability for changes to the database because changes cannot be attributed to a

specific person. We recommended that they discontinue the use of shared accounts and create separate accounts for each user.

Joseph Gloria, Registrar of Voters reported that Elections is actively working with Central IT and Election's sub-security group to tighten security and resolve these issues. Presently, there are no longer any frontline workers sharing passwords in the system. Elections is also looking into either utilizing the new voter registration system which will allow Elections to administratively control those efforts or limit access by database administrators so only one person has that access. Completion of corrective action expected by August 2021.

2) Improvement to election applications logical control.

Audit identified various concerns while testing Logical controls for the VEMACS, PollPower and VoteSafe applications. Upon notification of concerns, the Election Department submitted a change request to rectify some of them. We recommended that they document and implement additional procedures to mitigate the identified risks.

Completion of corrective action expected by August 2021.

3) Policies and procedures regarding poll workers are not being followed.

- During the testing, we found that three of the 71 sampled poll workers were not active registered voters as required by NRS.
- We also found that the training class sign in sheets, indicating that the poll workers were adequately trained, could not be located for 46 of the 71 sampled poll workers.
- We reviewed class rosters for the 2018 primary and general elections and the 2019 primary election and found inconsistent recording of whether an attendee passed the training.
- We found that the recruiting manual used by the recruiters was outdated with no documented revision date. The recruiters do not follow the procedures for poll worker applications received over the phone as they are currently listed in the manual.

Audit recommended that the Election Department:

- Update policies and procedures to reflect current procedures in place for poll worker applications received over the phone and grading and evaluating poll workers.
- Implement procedures to verify that all poll workers are registered voters in compliance with NRS.
- Implement procedures to verify that the registration status for poll workers is active when working on an election.
- Train staff on procedures for documenting training.
- Implement procedures to retain class roster sign in sheets.

Corrective action to be incorporated for 2022 Election.

4) Policies and procedures need to be implemented to ensure compliance with NRS 293.217.

- On the poll worker application, applicants certify by signature that they are not a candidate or related to a candidate for nomination or election in accordance with NRS. However, applications are not retained and no notation is made in the computer application, so there is no way to confirm that applicants certified.

- During the recruitment, recruiters contact poll workers that are on the active poll worker listing by phone to verify information on file and confirm participation. The recruiter verifies the information verbally with the individual and at times there was no documentation to confirm that poll workers certified that they are not a candidate or related to a candidate for nomination or election.

We recommended that the Election Department:

- Develop, implement and enforce policies and procedures pertaining to poll workers certifying for every Election they serve in, that they are not a candidate or related to a candidate for nomination or election in compliance with NRS.
- Develop, implement and enforce policies and procedures for retention of poll worker certifications for periodic review.

For finding #3 and #4, Joseph Gloria reported that policies and procedures have been implemented requiring verifiable documentation affirming the election workers status as registered or whether they are candidates or related to candidates. The policy includes the requirement that these documents and other election materials be retained for 22 months according to Statute. Corrective action to be incorporated for 2022 Election.

5) Background checks should be performed on poll workers.

Background checks are not performed on poll workers at this time. While Nevada statutes do not require a background check, some poll workers, specifically those who are Laptop Operators and Kiosk Specialists are able to view confidential voter information not available to the public.

We recommended the department consider implementing procedures for some form of background check on poll workers especially Team Leads during early voting.

Joseph Gloria reported that background checks, budget permitting, will be implemented for poll workers especially Team Leaders in early voting. Team Leaders who work on Election Day are mostly permanent County employees who have passed the background check.

Background checks are currently not required for Laptop Operators and Kiosks Specialist who are able to view but not modify confidential voter information.

Human Resources performs background checks and use the same standards/disqualifiers for election workers that is used to determine a potential employee's eligibility for County employment depending on the specific job description.

Discussion ensued on the challenges for poll worker recruitment for early voting, disqualifiers and improving the background check process. Elections will work with Human Resources to determine background check requirements based on the position/job description and responsibilities of poll workers.

6) Registration list maintenance should be verified and written policies and procedures documented.

During testing of the list of maintenance performed in June 2018, we found that three of 804 records from the deceased report, nine of 859 records from the in-state duplicate report, one of 62 records from the cross-county duplicate reports and 145 of 12,701 records from the cross-state duplicate report were not updated in the registration list due to oversights in the update process. While the voter registration list is periodically updated using reports, there are no written policies and procedures in place to document the process. We believe that the errors were an oversight

We recommended that the Election Department perform a closing review of the reports after the list maintenance is completed to ensure that no updates are overlooked and adopt written policies and procedure related to the periodic maintenance of the voter registration list.

Joseph Gloria reported that the policy for Registration List Maintenance is being updated and documented to ensure that written reports are provided verifying that any Registration List maintenance is documented as complete and verified by the supervisor.

- 7) Hardware disposal procedures should be improved.

During the most recent disposal of hardware, the department did not fully adhere to County Information Technology Directive 1. We recommended that they implement a procedure to dispose the hardware in accordance with that policy.

Joseph Gloria, Registrar of Voters agreed with the assessment. In compliance with Information Technology Directive 1, policies and procedures are being updated to ensure that election staff clears information from the hardware and that this is documented prior to turning over the equipment to the Blind Center.

- 8) Business continuity plan testing and training needs to be documented.

The Election Department performs testing of the Disaster Recovery Plan prior to every election but did not maintain documentation confirming that the test was performed. There is also no documentation of the deficiencies noted during the test and whether steps were taken to remedy those deficiencies. Further, not all key staff members mentioned in the plan have participated in training, and the Election Department did not maintain documentation to show training was completed for anyone that received the training

Audit recommended that the department provide Business Contingency Plan training to key staff members, that they document the results of the training and that they review and update the Business Contingency Plan annually with sign off once the update is complete.

Joseph Gloria reported that the Elections Department is working with the State Office of Emergency Management and US Department of Homeland Security (DHS) to improve documentation. Elections is also working with the local DHS representative to coordinate onsite testing for all permanent staff and will ensure that staff participation is documented.

- 9) Risk assessment should be improved.

The Election Department performed a preliminary risk assessment but we believe that could be improved. The current risk assessment could leave risks unmitigated and could prevent the department from finding solutions to existing threats.

The United States Department of Homeland Security (DHS) offers a cybersecurity assessment tool for local election jurisdictions. The Election Department has not taken advantage of this tool. This tool includes risk and vulnerability assessment, remote penetration test, cyber resilience review, vulnerability scanning and other drills that could assist the Election Department in strengthening their cybersecurity defenses.

Audit recommended that the department complete a risk assessment at least annually and document the results and that they work with the US Department of Homeland Security to implement their cybersecurity assessments.

Elections is working with Central IT to coordinate risk assessment testing and will continue to work with DHS, CIS to take advantage of cybersecurity assessment tools available. Central IT is working with a vendor that actively looks at testing every election cycle. With regards to physical security training (active shooter, bomb threats), DHS is coordinating an onsite physical security training session in the fall and then annually or as often as needed. Training for temporary staff via Zoom will also be made available.

10) Patch management tracking process could be improved.

Audit found that Elections generally keeps the voter registration applications up to date with the latest software versions and application patches. However, documentation of software that is installed or omitted could be improved.

Audit recommended that the department improve patch management to track patches that were installed or omitted and that they document a fallback plan if installation is corrupted or updates do not install correctly.

Corrective action to improve tracking and documentation is in progress.

11) Improvement to inventory tracking.

Audit tested the location of 15 computers on the Election Department's inventory listing. There was one computer found that was donated but not updated on the inventory list and three computers that could not be located. At the time of the audit, the department was going through a technology refresh program so there was a lot of movement back and forth.

Audit recommended that the department update the master inventory list annually and verify the location of laptops, desktops and servers that may contain voter registration data.

Corrective action in progress. The use of software to assist in tracking inventory on the IT side is being explored.

12) Data encryption is in place but could be improved.

Data encryption during transmission seemed reasonable but data encryption at other stages can be improved. The US Election Assistance Commission recommends that encryption be used for both data at rest and in transit, including encryption of the database, servers, backups and any files used for distribution.

Audit recommended that the department implement end to end encryption of the database as recommended by the US Election Assistance Commission (EAC).

Corrective action in progress. Elections is working with IT to improve and follow the recommendations provided by the EAC, DHS and CIS.

Other topics discussed include:

- *Challenges with voter registration maintenance and benefits of using the Top Down Voter Registration System maintained by the Secretary of State.*
- *Certification testing according to federal standards.*
- *Elections best practices study as it relates to poll worker documentation.*
- *Plans to review the Election's process with focus on the mail in ballot system prior to the next election.*
- *Clark County Information Technology (also referred to as Central IT) support role in Elections work - Nadia Hansen, Chief Information Officer provided the following information:*
 - *Central IT supports and assists the Elections Department by providing the Election Department with the infrastructure (servers, database and network). Elections has departmental IT support staff that manages all application related issues (working with vendors, creating users).*
 - *Recruitment of a high level Chief Information Security Officer to oversee cybersecurity initiatives.*
 - *Assess Elections outdated software and potential replacement to meet 21st century needs.*

Joe Gloria expressed appreciation to the Internal Audit staff for the work done that began in 2018 and for the audit report that was very helpful in identifying many areas for improvement. The Election department has served as model throughout the nation and is committed to working hard to make things better.

The report was accepted by the Audit Committee.

There were no comments from the general public.

There being no further business, the meeting was adjourned at 10:37 am.