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Angela M. Darragh, CPA, CFE, CISA, Director

September 4, 2015

Mr. Don Burnette
Clark County Manager
500 South Grand Central Parkway, 6th Floor
Las Vegas, Nevada 89106

Dear Mr. Burnette:

We recently completed an audit of the District Attorney's Office Victim Witness Assistance Center Checking Account. The audit covers transactions from January 1, 2008 to July 31, 2014. We performed a subsequent review of all transactions after the audit period. The last day of fieldwork was April 3, 2015. The objective of this audit was to determine whether adequate controls exist to safeguard assets against abuse and errors and verify that all Victim Witness Assistance Center checking account transactions are accounted for; authorized; adequately supported; and records retained in accordance with laws, District Attorney's Office policies and procedures, and County guidelines.

We found that Victim Witness Assistance Center controls need to be strengthened to safeguard assets. We found the following areas in need of improvement:

- Insufficient policies and procedures for use of funds.
- Support for payments not maintained in accordance with record retention requirements.
- No tracking of restricted use donations.
- Lack of policies and procedures for account administration.
- The account should be re-established as a revolving account.

We were able to account for all funds deposited and withdrawn from the account during the audit period.

We reviewed transactions subsequent to the audit period and found that the District Attorney's Office, as of February 28, 2015, did not make any further payments from the Victim Witness Assistance Center account. The District Attorney's office continues to deposit funds for restitution payments from victims that cannot be located. LRS Systems, LTD is no longer donating to the Victim Witness Assistance Center.

A draft report was provided to the District Attorney for comment, and his response is included.

We appreciate the cooperation and assistance provided by the staff of the District Attorney.

Sincerely,

Angela M. Darragh

Angela M. Darragh, CPA
Audit Director

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AUDIT DEPARTMENT

Audit Report

District Attorney Victim Witness Assistance Center Checking Account

September 2015

Angela M. Darragh, CPA, CISA, CFE
Audit Director

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BACKGROUND

The Victim Witness Assistance Center is administered by the District Attorney's Office. According to the District Attorney's Office, the Victim Witness Assistance Center was created in 1976. In 1983 the Nevada General Assembly mandated certain rights and guarantees to victims and witnesses enacted in Chapter 178 of the Nevada Revised Statutes (NRS). Specifically, the protections for victims and witnesses as included in this Chapter are following:

- Confidentiality of personal information.
- Investigation by sheriff of threats of harm; protection.
- Harassment of victim or witness by employer; notification by prosecuting attorney of continuance of proceeding.
- Separate waiting area; disposition of personal property; fees for testifying.
- Information concerning release of defendant and disposition of case provided upon request; court to inform and provide documentation to certain persons of their right to be informed of release of offender from prison in certain cases; when and whom warden must inform of release of offender from prison.
- Designation of Attendant to provide support for witness during testimony.
- Immunity of material witnesses from prosecution.

In 1999, NRS 4.3755 was enacted to allow the District Attorney's Office to deposit unclaimed restitution payments in a fund for the compensation of victims of crime. Victims of crime by NRS 217.070 definition does not include witnesses to a crime but does include a relative of the victim.

The Victim Witness Assistance Center operates to comply with NRS related to victim/witness rights. It provides advocates to victims and witnesses of crime when they are required to testify. The advocate assists the victims and witnesses through the court process and answers any questions they may have. The Victim Witness Assistance Center also provides a separate waiting area for the victim and his/her family when they are at court.

The District Attorney's Office established a checking account to manage funds received for the benefit of victims and witnesses of crimes. The checking account was established February 23, 1989.

Restitution payments from Las Vegas Justice Township and Clark County District Courts are made at the District Attorney's Victim Witness Assistance Center or

the Bad Check Unit. For cases handled by other Justice Courts, restitution is made directly to that court. When a victim cannot be located by these other Justice Courts, the funds are deposited into the Victim Witness Assistance Center pursuant to NRS 4.3755.

The acceptance of small monetary donations up to $1,000 and property, with restrictions, was approved by the Board of County Commissioners (BCC) on July 15, 2014. Larger monetary donations are to be presented to the BCC for individual acceptance.

The money held in the Victim Witness Assistance Center checking account is recorded in the County's financial system in a Miscellaneous Agency Fund under Cash in Custody of Other Officials. Since the funds are recorded, they are included in the Comprehensive Annual Financial Report, the County's audited and publicly issued financial reports. However, standard and accepted accounting practices do not require that agency fund revenues and expenditures be reported in financial records, as these funds are held on behalf of others. As a result, standard accounting practice is to exclude the fund from the County's budget for revenue and expenditures, but the financial activity in the Victim Witness Assistance Center checking account is not considered significant to the County as a whole. As of July 31, 2014, the balance of the account was $78,612.75. A total of 80 checks were written out of the account during the audit period from January 1, 2008 to July 31, 2014. Of the 80 checks, 31 were case related with the remaining 49 checks written for supplies and other items. The balance of the accounts as of May 31, 2015, is $82,585.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objectives are as follows:

- Determine whether adequate controls exist to safeguard assets against abuse and errors.
- Verify that all Victim Witness Assistance Center checking account transactions are accounted for; authorized; adequately supported; and records retained in accordance with laws, District Attorney's Office policies and procedures, and County guidelines.

Our audit will not provide opinions or conclusions on areas that are considered legal issues, such as whether the Victim Witness Assistance Center checking account purpose and case related uses are appropriate, whether payments are subject to or made available for discovery, and whether the checking account and supporting documents are public record.

Our audit period covers Victim Witness Assistance Center checking account transactions from January 1, 2008 to July 31, 2014. Sufficient supporting documentation of transactions was not available prior to this period. We performed a subsequent review of all transactions after the audit period. The last day of fieldwork was April 3, 2015.

To accomplish our objectives, we did the following:

- Tested all payments made during the audit period for use consistent with fund objectives, approval, and adequate supporting documentation.
- Reviewed the bank reconciliation for the last month of the audit period and agreed the amount to the bank statement analysis.
- Obtained prior bank reconciliations to determine that these were consistently completed.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

RESULTS IN BRIEF

Victim Witness Assistance Center controls need to be strengthened to safeguard assets. We found the following areas in need of improvement:

- Insufficient policies and procedures for use of funds.
- Support for payments not maintained in accordance with record retention requirements.
- No tracking of restricted use donations.
- Lack of policies and procedures for account administration.
- The account should be re-established as a revolving account.

We were able to account for all funds deposited and withdrawn from the account during the audit period.

We reviewed transactions subsequent to the audit period and found that the District Attorney's Office, as of February 28, 2015, did not make any further payments from the Victim Witness Assistance Center account. The District

Attorney's office continues to deposit funds for restitution payments from victims that cannot be located. LRS Systems, LTD is no longer donating to the Victim Witness Assistance Center.

Each finding includes a ranking of risk based on the risk assessment that takes into consideration the circumstances of the current condition including compensating controls and the potential impact on reputation and customer confidence, safety and health, finances, productivity, and the possibility of fines or legal penalties. Rationale behind high and medium rankings is included in the detail findings.

DETAILED RESULTS

Insufficient Policies and Procedures for Use of Funds (Medium)

The victim witness account was used to purchase a wide variety of items, such as the following:

- Water for use during training courses.
- Membership dues related to victims and witness rights organizations.
- Gift baskets for victim and witness functions.
- Trophies for functions related to domestic violence victims.
- Victim rights luncheons.
- Victim advocate training luncheons.
- Digital media players for attorney court presentations.
- A car seat for investigators.
- Directory advertising for the National directory of Domestic Violence Programs.
- Magnetic business cards with Victim Witness Assistance Center phone number.
- Chalkboards for the child waiting area.
- Furniture for the child waiting area.
- Television for the child waiting area.
- Wall décor for the child waiting area.
- Wipes for the victim/witness waiting area.
- Other cleaning products for the victim/witness waiting area.

Due to the lack of policies, we could not determine whether purchases were made in accordance with the purpose of the fund. A total of $8,872 was spent on these types of items during the audit period from January 1, 2008 to July 31, 2014, some of which could potentially be purchased through existing contracts with operational funding as opposed to donated funds. This amount does not

include Victim Witness Assistance Center supplies or refreshments purchased with LRS Systems, LTD. donated funds as approved by the BCC.

The use of this account bypasses normal County budgeting and purchasing processes and controls. Further, the purpose of the program, to provide for the safety of victims and witnesses, can be jeopardized if funds are used for operational items. However, a relatively low amount of money is spent from the account. Therefore, we ranked this risk as medium.

Recommendations

1. Develop written policies and procedures that outline specific uses of the Victim Witness Assistance Center checking account funds.
2. Purchase general office supplies through existing County contracts with operational funds.

Support Not Retained in Compliance with Record Retention Guidelines (Medium)

Records supporting Victim Witness Assistance Center payments are not available prior to January 1, 2008. While the Clark County, Nevada Local Government Records Retention Schedule under NRS 239 requires banking and accounting records to be kept until audit clearance, criminal case files have varying retention requirements based on the type of case, up to and including permanently for homicides and major crimes. We believe these records should be included in the case file classification, since they may need to be disclosed during trial. Currently, records for payments are maintained in the Victim Witness Assistance Center office, which makes it difficult to destroy records based on case. Therefore, we believe the Victim Witness Assistance Center checking account payments and supporting documents should be made part of the case files maintained by the District Attorney so that they are maintained in accordance with this requirement.

We believe there would be limited need to obtain the documents past the current retention practice for litigation purposes. However, the cases where the documents would be needed are significant, since they include homicides and major crimes. Therefore, we ranked this as medium risk.

Recommendations

1. Retain Victim Witness Assistance Center payments and supporting documents in case files, so they are retained in accordance with appropriate record retention requirements.

No Tracking of Restricted Use Donations (Medium)

The Victim Witness Assistance Center does not track the use of funds that are restricted for specific uses. Total Victim Witness Assistance Center checking account deposits during the audit period amount to $105,813. Following is a summary of the sources of donations:

DEPOSIT SUMMARY

Deposit Type	Amount
LRS Systems, LTD.	$ 42,000
Private Donations	$ 37,910
North Las Vegas Restitution	$ 15,950
Restitution Reimbursed to Victim	$ 9,703
Contributions by Defendant	$ 250

According to Board of County Commissioners (Board) agenda item detail, LRS System, LTD. donated funds to assist victims with relocation and utility expenses, and to provide refreshments while victims prepare and wait for court appearances. The donation was approved by the Board on May 17, 2011, and the first donation was deposited May 18, 2011. The District Attorney's Office was to provide the Board with an annual report of donations received and how Victim Witness Assistance Center expended the funds. While annual reports of donations are made to the Board, how these funds are expended is not tracked or reported. We analyzed the funds in relation to the Board agenda item requirements and found compliant use.

In accordance with NRS 4.3755, the use of restitution payments for victims that cannot be located should be used for the victims of crime, including relatives but not witnesses. Much like the LRS donation, the District Attorney's Office does not track the use of these funds to ensure they are being used in accordance with this restriction.

We ranked this risk as medium due to the potential for accidental misuse of the funds since use is not tracked. Misuse would impact the reputation of the office and possibly the ability to obtain future donations, and therefore affect the success of the program. However, we believe the probability of misuse is low, due to the current size and volume of payments, resulting in an overall risk of medium.

Recommendations

1. Provide annual reports detailing LRS expended funds to the BCC.
2. Maintain schedules by restricted use and remaining balance.

3. Develop written policies and procedure for accepting donations.

Lack of Written Policies and Procedures for Account Administration (Medium)

The Victim Witness Center has limited written policies and procedures for administration of the account. For example, there are no established limits for payments. Established limits reduce the potential impact of erroneous payments. We reviewed 80 payments during our testing. We identified nine payments that did not have sufficient supporting documentation, three payments without documented authorization, and three payments with one of the signors also being the payee. Supporting documentation, formal authorization, and segregation of duties in check writing are important to ensure the validity of payments. We believe these issues were due to the lack of written policies and procedures, resulting in a breakdown of internal controls.

A strong system of internal controls contains segregation of duties, formal process for authorizing payments, controls over checks and check payment processes (including review of supporting documentation prior to signing of checks), controls over the deposit process, bank reconciliations, and monitoring controls. Practices that the District Attorney allows or does not allow (such as defendant contributions) should also be addressed in written policies and procedures.

While the amount of funds in the account is relatively low compared to the overall budget of the District Attorney's Office, any loss of funds could jeopardize the ability of victim witness program to provide funds when needed. Items such as the same person writing and signing the check as the payee and no documented approval create an opportunity for theft or abuse of the funds. Therefore, we ranked this as medium.

Recommendations

1. Establish written policies and procedures over the Victim Witness Assistance Center checking account that includes processes that promote strong internal controls.
2. Implement monitoring controls to ensure that the Victim Witness Assistance Center account is administered as management intends.

Account should be Established as a Revolving Account (Low)

NRS 252.140 requires that funds in agency funds, such as the one used for the victim witness account, be transferred to the County Treasurer on or before the 5th working day of each month. The District Attorney Victim Witness Assistance Center does not transfer the money received in accordance with NRS 252.140 for funds received in the Victim Witness Assistance Center checking account.

We believe the account was set up incorrectly when it was established. The checking account could be established as a revolving account under NRS 354.609. According to NRS 354.609, the BCC may establish a revolving account to assist in the administration of any activities which the local government is authorized by law to engage. A resolution is required by law that must state the object and purpose of the account, the source of money to be used, the method of controlling expenditures, and the maximum dollar amount of any single expenditure. Payments may then be made out of the account without the approval of the BCC and the funds would not be required to be transferred to the County Treasurer.

Recommendations

1. Create a BCC resolution to establish the account as a revolving account.

Victim Witness Assistance Center Checkbook Activity Review after Audit Period

We reviewed checking account activity to May 31, 2015, and found that there were no payments made since the end of the audit period. LRS Systems, LTD. is no longer donating to Victim Witness Assistance Center.

MANAGEMENT RESPONSE

The Victim Witness Assistance Center of the Clark County District Attorney's Office (VWAC) is committed to assisting the victims of crime and the witnesses required to prosecute criminals in our courts. VWAC's primary function is to assist those people in navigating the court system. Additionally, VWAC serves the victims and witnesses of Clark County by directing those people to needed services. VWAC has offered financial assistance on behalf victims and witnesses in an extremely small number of cases when assistance from other agencies was not available. Between 2005 and 2014 the Clark County District Attorney's Office has prosecuted over 200,000 felony/gross misdemeanor cases and over 350,000 misdemeanor and traffic cases. During that time only 58 payments have been made to assist a victim or witness. Thus, payments have been made in approximately 0.0001 % of the cases prosecuted.

The primary source of the funds has been donations to VWAC. None of the donors placed restrictions on the use of the funds other than that they be used for VWAC. In addition to donations, restitution payments collected from criminal defendants by the Justice Courts but which cannot be paid to victims has also been used to assist the victims and witnesses served by VWAC, as authorized by NRS 4.3755. It cannot be controverted that all of the relevant funds have been spent on services provide to victims and witnesses or the work of VWAC.

The fact that VWAC occasionally has provided financial assistance for a specific victim may not be widely known since that has been done in an extremely small number of cases. However, the assistance has not been a secret. This type of assistance has been discussed during hearings of the Nevada legislature related to the enactment of NRS 4.3755, has been the subject of agenda items presented to the Clark County Commission, has been discussed in a written opinion of the Nevada Supreme Court (Leonard v. State, 117 Nev. 53 (2001)), and has been disclosed during the prosecution of some criminal cases. A very clear explanation of the practice was given during the trial of Nevada v. Glenford Budd, case # C193182. Three of the four attorneys involved in that trial are now senior members of the Clark County Public Defender's Office, thereby establishing that staff of that office is aware of the practice. (See pages 7 and 8 of the 12-13-2005, trial transcript). With regards to the disclosure of financial assistance on behalf of victims to criminal defendants, the District Attorney's Office is, and always has been, committed to complying with our discovery obligations and to ensuring that we secure legally sound convictions. In the last year, legal challenges have been made in three cases seeking new trials based upon the alleged failure of this office to disclose a payment. All three motions were denied and no new trials have been granted based upon this non-issue. Moving forward the District Attorney's Office remains committed to honoring our legal discovery obligations.

The District Attorney accepts the findings and recommendations of the Clark County Audit Department and will implement those recommendations in order to improve our procedures and policies.