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May 12, 2003

Senator William Raggio, Chairman  
Senate Finance Committee  
Nevada State Legislature, Office #1222  
401 S. Carson Street  
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Assemblyman Morse Arberry, Chairman  
Assembly Ways & Means  
Nevada State Legislature, Office # 3133  
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RE: Office of the Attorney General - Budget Issues

Dear Chairman Raggio:

The purpose of this letter is to update the Senate Finance Committee regarding the continued efforts of the Attorney General's Office in addressing various issues raised during the budget hearings. This information also supplements our written responses provided to the Fiscal Division of the Legislative Counsel Bureau on March 3, 2003.

**A. Performance Measures**

The Attorney General's Office has scheduled a 16-hour strategic planning and performance measure training session for internal management which will be held June 23<sup>rd</sup> – 26<sup>th</sup>. We are also collecting performance measure and benchmark information used by Attorneys General in other states. At this time, we have received information from the State of Oregon. With the performance measure training and information collected from other states, the Attorney General's Office will work with the Budget Office to review and revise existing performance measures, while also creating performance measures for those budgets where none are assigned.

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#### **B. Internal Audit – Fraud Units and Bureau of Consumer Protection**

At my request, the Internal Audit Division is in the process of conducting a performance audit of the Insurance Fraud Unit (B/A 3806); Workers' Compensation Fraud Unit (B/A 1033); Medicaid Fraud Unit (B/A 1037) and the Bureau of Consumer Protection (B/A 1038). The audit team has interviewed staff within these units and is in the process of completing its financial review of these budgets. Upon receiving the completed audit report and recommendations, we will provide a copy of this audit to the Interim Finance Committee for its review and consideration.

#### **C. Relocation of Reno Office, Gaming Division and BCP**

The current lease for the Reno Office expires on July 31, 2003. We have located new office space in south Reno which is more efficient in its design and will allow us to reduce the amount of square footage needed for the Reno staff. Because of the pending budget situation, the Office of the Attorney General has not yet committed to this new space. Based on our preliminary calculations, if the Reno office is relocated to this new space we anticipate that the operating expenses of each budget occupying space in Reno will achieve some savings.

We are also actively pursuing relocating the Gaming Division attorneys and the Attorney General's Bureau of Consumer Protection to our central office in Carson City. Our current space plan in the Attorney General's office complex provides adequate space and significant general fund cost savings which will result from the relocation of both divisions.

#### **D. Additional General Fund Savings**

The Attorney General's Office is continuing in its efforts to implement budget measures resulting in savings to the State General Fund. For the next biennium, the Attorney General's Office expects to realize savings by:

- Limiting requests for new positions to only new staff that are necessary to implement and enforce new legislation;
- Reducing the our training budget by \$30,000 for each fiscal year;
- Achieving salary savings through voluntary leave without pay and the rotation of vacant positions; and
- Reducing equipment expenses by \$200,000.

During the course of the current fiscal year, the Attorney General's Office has also reverted over \$575,000 to the General Fund.

### **E. Consolidated Fraud Unit**

The Office of the Attorney General is presently considering the consolidation of its various fraud units. The Internal Audit Division is exploring this idea in the course of conducting the performance audit. This proposal for consolidation will be addressed in the audit report.

### **F. Workers' Compensation Fraud Unit – B/A 1033**

#### **1. Outreach Efforts**

Since the Attorney General budget hearings in early February, the Workers' Compensation Fraud Unit has significantly increased its outreach efforts to improve case referrals and establish a rapport with industry representatives. With these efforts underway, we are confident that the case referrals will increase and the productivity of this unit will improve significantly.

#### **2. Biennial Plan**

The Workers' Compensation Fraud Unit is also in the process of drafting a biennial plan which establishes specific objectives and timeframes for such things as developing case intake procedures, reviewing active cases on a monthly basis, and evaluating civil remedies in addition to criminal prosecutions. A copy of the current DRAFT Biennial Plan is attached.

#### **3. Savings by Attrition**

At my request, the Workers' Compensation Fraud Unit is currently holding positions vacant that are funded by B/A 1033. The annual savings (salary plus benefits) achieved through these vacancies has been calculated as follows:

Chief Deputy Attorney General	\$ 121,100
Investigator	\$ 63,199
Investigator	\$ 63,199
Administrative Aide	<u>\$ 49,969</u>
<b>TOTAL</b>	<b>\$ 297,467</b>

With outreach efforts underway, we are preserving vacant positions until such time as the caseload stabilizes and we have a clearer picture regarding the needed resources for the Workers' Compensation Fraud Unit. Also, depending upon the recommendations of the internal audit we will evaluate whether and to what extent any existing positions within this unit could take on additional workload and responsibilities.

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As always, please feel free to contact me if you wish to discuss these matters further.

Sincere regards,



BRIAN SANDOVAL  
Attorney General

cc: Gary Ghiggeri, LCB Fiscal  
Mark Stevens, LCB Fiscal  
Jeff Ferguson, LCB Fiscal

## **BIENNIAL PLAN - WORKERS COMPENSATION FRAUD UNIT (WCFU)**

### **Mission Statement**

The Workers Compensation Fraud Unit (WCFU) was created in 1993 in response to the industrial insurance crisis and the potential default of the state system in the face of over \$4 billion in debt. As part of the massive overhaul of the system, the WCFU assumed jurisdiction over all workers compensation fraud. The Unit is the sole state investigation and prosecution unit for all industrial insurance fraud whether committed by claimants, employers or medical providers. In addition to the complaints received from employees, employers, insurers and the general public, the WCFU proactively checks businesses for industrial insurance coverage.

### **Specific Objectives**

1) The WCFU will achieve the following objectives for improving communications with insurance companies, self-insured businesses, third-party administrators, and other entities that refer claimant fraud cases to the WCFU:

**a) Within the next 30 days, the WCFU will create a standardized acknowledgment letter to be sent to insurance companies, self-insureds, and others who refer cases to the WCFU, and will establish procedures for the timely acknowledgment of referrals and communicating appropriate case status information.**

**b) Within the next 60 days, the WCFU will review every active claimant fraud case assigned to an attorney, determine the status of the case and appropriate further action.**

**c) Within the next 120 days, the WCFU will meet with every major Nevada business, human resources department, employee and industrial insurance company, self-insured, third-party administrator, and other source of claimant fraud referrals to discuss improvements to the intake, investigation, case-assessment, and prosecution of claimant fraud cases.**

**d) Within 180 days, the WCFU will establish a Workers Compensation Fraud Advisory Group composed of industry leaders, insurers, employers, medical providers and other appropriate parties to advise the WCFU and to meet on at least a quarterly basis.**

**e) Within 180 days, develop a training program for workers compensation industry professionals to promote higher quality case referrals and improve success of prosecutions.**

**2) To improve investigations procedures and the prompt review and turn-around of referrals, the WCFU will meet the following objectives:**

**a) Within 30 days, review intake and investigations procedures, implement more efficient, timely processing of WCFU case referrals. Procedures will include implementation of an attorney/investigator team approach to investigations and initial case-assessment.**

**b) Within the next 60 days, review all open investigations to determine the status of the case and appropriate further action; develop a standardized investigative report.**

**c) Within the next 90 days, revise investigations policies regarding non-WCFU investigations, search warrants, and other outside requests.**

**d) Within 90 days, develop a program for continuing education of investigators in substantive workers compensation fraud law.**

**e) Each investigator will conduct approximately 10 proactive business checks per month, establish a tracking system for prosecutions resulting from such checks.**

3) WCFU deputies appear in Justice and District Courts on an almost daily basis for arraignments, pleas, sentencing, and restitution status checks in employer and claimant fraud cases. The WCFU attorneys are experienced trial lawyers, including 1 former deputy district attorney and two former public defenders. All WCFU attorneys have conducted felony jury trials and misdemeanor non-jury trials in their careers. As with other fraud prosecution units, WCFU has had difficulty getting felony cases to jury trial. Over the next year, WCFU intends to meet this challenge in the following ways:

**a) Within 90 days, begin a trial advocacy training program for all prosecutors. Training will include regular in-house and available outside training, and will address criminal procedure and substantive law.**

**b) Within 90 days the WCFU, working with the Chief of Criminal and AG Administration, will meet with the chief judges of the Las Vegas Justice and District Courts to persuade the courts to be more accessible to AGO fraud prosecutions.**

**c) Each WCFU prosecutor will conduct at least 5 preliminary hearings, grand jury presentments, or misdemeanor trials per year, and 2 felony trials per year.**



**d) The director of the WCFU will increase his caseload to approximately 20% of that handled by WCFU deputies.**

5) The WCFU has the following objectives for improved collection of judgments, restitution, and fines:

**a) Within 90 days, establish a system for the improved tracking and monitoring of collections.**

**b) Within 90 days, establish policies for more proactive review of probationers including enforcement of payment plans.**

6) In addition to efforts already underway to enhance communications within the workers compensation fraud community, the WCFU has the following objectives:

**a) Commit a WCFU deputy or investigator to at least one speaking engagement per month to educate the public, law enforcement, and others in WCFU issues.**

**b) Within 90 days, create a unified fraud units brochure, update the WCFU website, and create an online fraud referral form and fraud reporting email address.**

**c) Within 180 days, create a fraud newsletter, working in conjunction with the other states' fraud units.**

**d) Within 180 days, coordinate a 10<sup>th</sup> anniversary WCFU fraud conference in Reno and Las Vegas**

WCFU BIENNIAL PLAN		
Time Frame (Within)	Objectives	Recurrence or Follow Up
30 days	Draft standardized referral acknowledgement letter, establish 30 day response policy to all case-referring parties	Update every 6 months
30 days	Review WCFU intake and assessment procedures for more timely processing of referrals; implement investigator/attorney joint case review	Review annually
60 days	Meet with justice and district court judges to improve access to courts	Annually
60 days	Review every active claimant fraud case assigned to an attorney, determine status and appropriate further action	Quarterly
60 days	Review all open investigations files to determine status of cases and appropriate further action; establish standardized investigative report	Quarterly
90 days	Develop attorney trial advocacy training program in procedural and substantive areas of WCFU law; continuing education for investigators	Monthly training
90 days	Establish system for improved tracking of collections; establish proactive review of probationers vis-à-vis enforcement of payment plans	Review semi-annually
90 days	Release updated fraud units brochure; update WCFU website, create online fraud referral form and email address; create a WCFU newsletter;	Review annually
90 days	Review investigations policies re: non-WCFU matters, warrants, arrests	Annually
120 days	Meet with major businesses, insurers, to discuss improvements in intake, investigation, case-assessment, and prosecution of claimant fraud cases.	Annually
180 days	Each WCFU investigator will conduct approximately 10 proactive employer checks for workers comp insurance per month	Monthly
180 days	Establish workers comp fraud advisory group composed of industry leaders, insurers, employers, et al. to advise WCFU	Quarterly meetings
180 days	Increase WCFU director's caseload to 20% of WCFU DAGs	Review annually
180 days	Organize and promote a 10 <sup>th</sup> anniversary WCFU conference	Every 2 years
1 year	Each prosecutor to conduct 5 preliminary hearings, grand jury presentments, or misdemeanor trials, 2 felony jury trials	Annually
1 year	Review insurance fraud legislation in anticipation of proposed legislation for the following session	Annually