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September 9, 2013

TO: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: Wendy L. Watanabe
Auditor-Controller

SUBJECT: **LOS ANGELES COUNTY SUPERIOR COURT – COLLECTIONS OPERATIONS REVIEW (Board Agenda Item 39-A, February 12, 2013)**

On February 12, 2013, your Board instructed the Auditor-Controller (A-C) to review the effectiveness of the Los Angeles County Superior Court's (Superior Court) existing primary and secondary collection operations and its collection contract during the last five years. The collection contract is jointly administered by the Superior Court and the Chief Executive Office (CEO).

Specifically, your Board instructed the A-C to: (a) Describe the efficacy of the existing primary and secondary collection efforts; (b) Describe how collection efforts have increased or decreased over the last five fiscal years, and dollar values of any revenue fluctuations; (c) Explain the importance of technology and systems in the current collections process, including how the existing system contributes in aiding or impeding collection efforts; (d) Recommend steps that can be taken by the County to further maximize its collection efforts; and (e) Identify any limitations in the existing collections contracts and/or Superior Court operations or procedures that would prevent the County from maximizing its collections efforts.

We structured our review and report into the following four categories to address each area listed above:

- Superior Court Assessment and Collection Operations;
- Primary Collection Efforts – GC Services;

- Secondary Collection Efforts – Franchise Tax Board; and
- County Monitoring, Oversight and Budgetary Concerns.

Background

The Lockyer-Isenberg Trial Court Funding Act of 1997, Assembly Bill (AB) 233, requires California Counties to make annual Maintenance of Effort (MOE) payments to the State for support of trial court operations. It also requires the County to continue funding certain Superior Court operations, such as collection enhancement (discussed below), indigent defense, and local judicial benefits. The support of these functions and their associated expenditures became the County's remaining responsibility and obligation under the law.

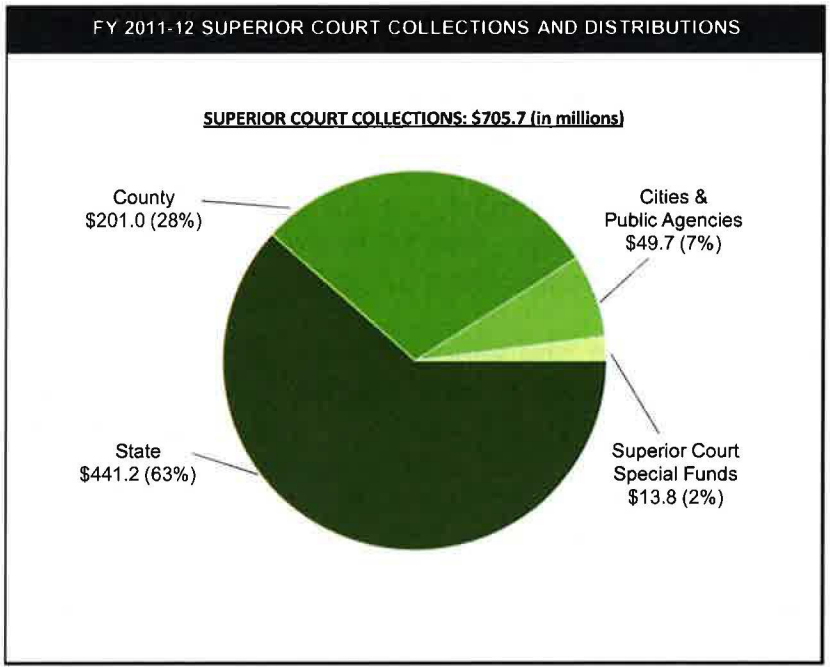
For Fiscal Year (FY) 2012-13, the County's budgeted Net County Cost (NCC) totaled approximately $253.5 million to fund this remaining responsibility. The NCC was comprised of $395.5 million in expenditures and offset by $142 million in revenues. The expenditures include MOE payments of $290.6 million to the State and all of the other aforementioned expenditures. As this large NCC is a substantial burden to the County's General Fund, any improvements in Superior Court collections would help reduce the County's NCC.

We also noted that Superior Court's FY 2011-12 budgeted revenue was $144.8 million, but their actual revenue for the year was $127.3 million, which fell $17.5 million below budget. The final revenue included approximately $119.8 million from its collections (e.g., traffic fines, criminal offense fines, etc.) and $7.5 million from other minor funding sources; however, this revenue is proven to be far less than the County's annual funding needs to carry on its obligation.

The Superior Court assesses and collects fines and fees for traffic offenses, criminal offenses, fees charged for court-appointed attorneys (e.g., juvenile dependency, minors counsel, etc.), and judicial sanctions. Once the assessments become delinquent (e.g., offender did not appear in court or pay assessment by due date), a unit within the Superior Court referred as the Revenue Enhancement Unit (Unit) is responsible for further collection efforts. The Unit's salary and employee benefit cost is funded entirely by the County and staffed with County employees, but managed and overseen by the Superior Court.

Superior Court management estimates that they have at least $1.6 billion in accumulated delinquent assessments outstanding as of December 2012. Most of the delinquent assessments are referred to GC Services, a debt collection agency, for the first or primary collection efforts. If GC Services cannot collect the delinquent assessments, they will refer some of them to the California Franchise Tax Board's (FTB) Interagency Intercept Collections (IIC) or Court-Ordered Debt (COD) Programs, for secondary collection efforts.

While the Superior Court collected $705.7 million in FY 2011-12 (both delinquent and non-delinquent assessments), it does not directly generate operating revenue from collections. Most of the collections are distributed to different agencies, such as the State, cities, and various public agencies. The following chart is a summary of the FY 2011-12 collection distributions.



Of the $705.7 million, the County received (County's share) approximately $201 million, which included approximately $119.8 million to help reduce the MOE obligation and fund certain County-responsible court operations, as mentioned earlier. The remaining amount of $81.2 million are allocated to approximately 21 special funds and 10 various County departments, as stipulated by distinct government code sections as defined in the AB 233.

Review Scope and Summary

Our review primarily focused on the Superior Court's traffic offense collections because they represent most of the delinquent collections outstanding (i.e., approximately 90%). We also reviewed the collections for other types of assessments. Our review included identifying collection rates/times, evaluating operating activities and comparing them to other counties, examining collection records, and interviewing Superior Court and GC Services management. The following is a summary of the results from our review.

Superior Court Assessment and Collection Operations

Superior Court should improve its overall collection operations including establishing effective or increased repercussions for all delinquent assessments, enhancing the timeliness, and tracking of their collection activities.

The Superior Court's collection practices are generally consistent with practices used by other counties. However, the Superior Court could potentially improve their collections by establishing effective repercussions for all delinquent assessments, and increasing the severity of repercussions when offenders do not resolve some assessments after significant periods of time. For example, we noted that the Superior Court places driver license holds (suspends license) for most, but not all, delinquent traffic assessments if offenders do not resolve them timely. The holds are not placed for delinquent red light camera and pedestrian assessments, which totaled $377 million as of December 2012.

Establishing driver license holds, or another equivalent penalty (e.g., vehicle registration hold, etc.), would encourage the offenders to resolve these assessments. The Superior Court could also improve collection timeliness by changing some of their practices (e.g., immediately placing driver license holds when assessments become delinquent instead of six months later, removing the holds when offenders actually appear in court instead of after they schedule court dates, etc.).

We also noted that the Superior Court needs to improve the tracking of their collection operations and activities. The Superior Court's case management systems do not generate reports on collection operations (e.g., collection rates, times, etc.). In addition, some systems do not maintain historical collection information, or require significant manual processes to extract information. For example, the Expanded Traffic Record System deletes traffic offense records 13 months after tickets are paid, and requires months of work to extract collection information for only one month of traffic offenses. Without collection reports or historical information, we could not fully quantify and evaluate the effectiveness of the Superior Court's collection operations. Superior Court management should consider developing a comprehensive collection tracking system.

Primary Collection Efforts – GC Services

While GC Services' collection operations generally comply with the terms of the contract, Superior Court management should consider establishing benchmarks to evaluate performance of GC Services.

We noted GC Services' collection operations generally comply with the terms of the contract. In addition, we compared their operations to best practices and other counties, and did not identify any deficiencies. However, while we noted that GC Services' contract identifies performance measures for collections, it does not include appropriate benchmarks to evaluate performance. For example, Gross Recovery Rate is a performance measure in the contract that identifies the percentage of referrals

collected or discharged from adjudication, but the existing contract does not indicate the rate GC Services must meet over time (e.g., 25% in first year, 35% in second year). Superior Court management should consider establishing benchmarks for performance measures in future contracts.

We also noted that GC Services has performance activity reports that identify total delinquent assessments referred by the Superior Court during each fiscal year, and collection activity associated with the referrals through the present. We included collection information for FY 2008-09 to FY 2011-12 referrals on Attachment II. We also included the average percentage of referrals collected by GC Services in the referral year, and the following three years, on the attachment. However, we could not compare GC Services' collection performance to the collection agencies serving other counties due to differences in the referral time periods, collection processes, collection tracking methods, and the offenders' socio-economic characteristics. Regardless, GC Services' collections appeared to have generally been consistent from year-to-year.

Secondary Collection Efforts – Franchise Tax Board

The CEO should request the Superior Court to fully use the FTB for secondary collections, as it is currently under-utilized. The CEO should also consider using County's current collection resources within the Treasurer and Tax Collector (TTC).

Based on our review, FTB's IIC and COD Programs have proactive collection practices (e.g., tax return interceptions, wage garnishments, etc.). However, the Superior Court is not fully utilizing the services available through FTB Programs and GC Services is not referring all assessments to FTB, as instructed by the Superior Court.

Superior Court management instructed GC Services to only refer unpaid criminal fees and juvenile dependency attorney fees to FTB. These fees make up less than 15% of all unpaid assessments referred to GC Services annually. We noted that GC Services is only collecting 27% of all unpaid assessments they receive after five years, leaving a significant amount available for secondary collections. Superior Court management should consider referring all types of unpaid assessments to FTB.

In addition, your Board instructed the CEO to develop a Request for Proposal for tertiary court collection efforts for the Board's review upon completion of this audit. We recommend that instead of searching for tertiary collection efforts, the CEO should request Superior Court to first fully use FTB for the secondary collection effort, since it is currently under-utilized. Secondly, the CEO should also consider using County's existing collection resources within the TTC, since TTC is experienced and has the expertise in collections.

We also noted that other counties are referring delinquent assessments to FTB much earlier (e.g., six months, simultaneously with other collection programs, etc.). Earlier

referrals could improve collections because of FTB's aggressive collection practices. For example, GC Services could only collect 2.2% of the criminal fee assessments they received after two years, but FTB's COD Program, which receives assessments later in the process, collects approximately 7.9% after two years. Superior Court management should evaluate referring the delinquent assessments to FTB programs earlier.

Furthermore, GC Services is required to refer unpaid delinquent assessments to FTB after three years if the offenders are not enrolled in payment plans. We reviewed ten criminal assessments referred to GC Services in 2008, and noted that four (40%) were not referred to FTB, as required, even though the offenders were not enrolled in payment plans. It should be noted that GC Services has little to no incentive to refer assessments to FTB because GC Services is not paid a commission on FTB collections. This may explain why GC Services did not refer the assessments to FTB. The CEO and Superior Court management should develop a method of monitoring GC Services to ensure they refer assessments to FTB, as required.

County Monitoring, Oversight and Budgetary Concerns

The County should expand oversight of the Superior Court's collection operations to ensure it achieves the maximum revenue possible to help offset the current $253.5 million in Net County Cost. The County should also reevaluate the 1997 Trial Court Funding Act and its legislative intent to safeguard the County's best interests.

As indicated earlier, the Superior Court does not generate operating revenue from their collections. Consequently, they do not directly benefit from improvements in collections and do not have an incentive to maximize collection efforts. Since the County relies on collection revenue to help offset its County-responsible court operation costs, it is in the County's best interest to ensure that the collection operations are effective and efficient. The Board and the CEO should consider expanding oversight of the Superior Court's collection operations by evaluating how the Superior Court manages and analyzes collection operations in their Revenue Enhancement Unit, the primary and secondary collection areas. The CEO should request the Superior Court to provide ongoing feedback on collection practices, including the overall effectiveness and efficiency of collection operations. Additionally, the Board and the CEO should consider assigning some of the collection responsibilities to TTC.

We also indicated that the County incurs approximately $253.5 million annually in NCC to support certain County-responsible functions and their associated expenditures as the County's obligation under the law. This is a significant cost and a burden to the County's funding source based on the terms of the 1997 Trial Court Funding Act, a more than a decade old legislation. Since the County has minimal input into the Superior Court's operations, and the legislation reflects the operating conditions from 16 years ago, the Board should consider advocating for the State legislature to reevaluate

the Trial Court Funding Act to determine whether modifications to its terms would better serve the interests of the County.

Detailed results of our review and recommendations are included in Attachment I.

Review of Report

We discussed the results of our review with Superior Court management. The Superior Court's initial response (Attachment III) indicates that they will provide your Board with a detailed response within 60 days.

We thank Superior Court management for their cooperation and assistance during our review. Please call me if you have any questions, or your staff may contact Robert Smythe at (213) 253-0101.

WLW:RS:YK

Attachments

c: William T Fujioka, Chief Executive Officer
William H. Mitchell, Interim Executive Officer, Los Angeles Superior Court
Sachi A. Hamai, Executive Officer
Audit Committee
Public Information Office

LOS ANGELES COUNTY SUPERIOR COURT
COLLECTIONS OPERATIONS REVIEW

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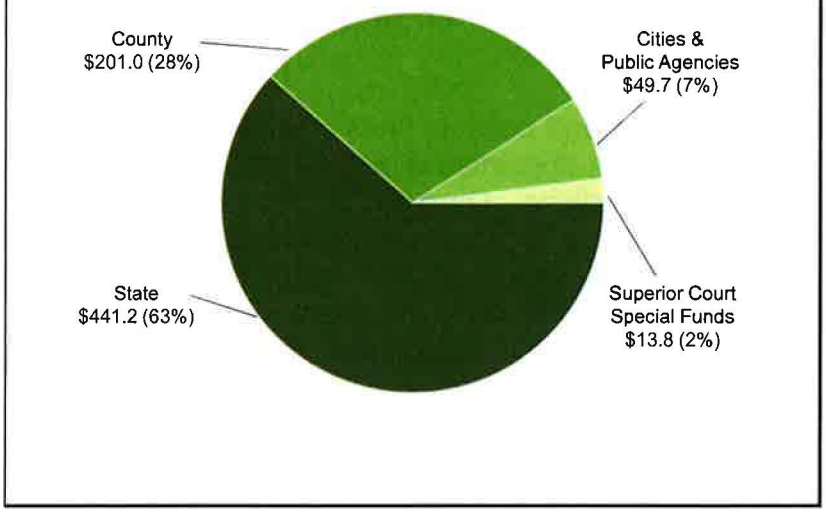
Superior Court management estimates that they have at least $1.6 billion in accumulated delinquent assessments outstanding as of December 2012. Most of the delinquent assessments are referred to GC Services, a debt collection agency, for the first or primary collection efforts. The Superior Court pays GC Services a 9.59% commission on amounts collected. If GC Services cannot collect the delinquent assessments, they will refer some of them to the California Franchise Tax Board's (FTB) Interagency Intercept Collections (IIC) or Court-Ordered Debt (COD) Programs, for secondary collection efforts. FTB garnishes wages, levies bank accounts, and intercepts tax refunds. FTB is paid $2.50 for each IIC Program collection, and a 15% commission on amounts collected by the COD Program.

While the Superior Court collected $705.7 million in FY 2011-12 (both delinquent and non-delinquent assessments), it does not directly generate operating revenue from collections. Most of the collections are distributed to different agencies, such as the State, cities, and various public agencies. The following chart is a summary of the FY 2011-12 collection distributions.

TABLE 1 - FY 2011-12 SUPERIOR COURT COLLECTIONS AND DISTRIBUTIONS



Of the $705.7 million, the County received (County's share) approximately $201 million, which included approximately $119.8 million to help reduce the MOE obligation and fund certain County-responsible court operations, as mentioned earlier. The remaining amount of $81.2 million are allocated to approximately 21 special funds and 10 various County departments, as stipulated by distinct government code sections as defined in the AB 233.

Scope

Our review primarily focused on the Superior Court's traffic offense collections because they represent most of the delinquent collections outstanding (i.e., approximately 90%). We also reviewed the collections for other types of assessments. Our review included identifying collection rates/times, evaluating operating activities and comparing them to other counties, examining collection records, and interviewing Superior Court and GC Services management.

Superior Court Assessment and Collection Operations

Traffic Assessment and Collection Process

The Superior Court receives traffic tickets issued by law enforcement for general traffic (e.g., speeding, etc.), pedestrian, and red light camera violations. Tickets are entered into the Superior Court's Expanded Traffic Record System (ETRS), which automatically calculates assessment amounts and mails courtesy notices to offenders identifying the amount due and arraignment date.

The Superior Court requires offenders to pay the assessment amount (equivalent to guilty plea), request traffic school, or appear in court to enter a plea by the arraignment

date. Offenders also must appear in court for the subsequent trial if they plead not guilty. Once cases have been adjudicated (i.e., verdict issued, etc.), judges establish the final assessment amount and due date. It should be noted that the offenders may request various extensions during the process. Due to these extensions and limited availability of court dates, the payment due date can be over a year after the ticket was issued by law enforcement.

The Superior Court charges offenders with a failure to appear (FTA) when they do not appear at required court dates, and a failure to pay (FTP) when assessment amounts are not paid after cases are adjudicated. FTAs and FTPs generally result in additional fines and driver license holds when not resolved timely. The Superior Court also refers the FTAs and FTPs to GC Services.

We reviewed the Superior Court's traffic assessment and collection process, and identified the following four potential areas for improvement:

I. Driver License Holds

The Superior Court submits requests to the California Department of Motor Vehicles (DMV) to place holds on driver licenses when offenders do not resolve FTAs and FTPs timely. The DMV notifies offenders of the hold and generally suspends driver licenses two months after the Superior Court's request. The holds are an effective penalty for most offenders because they remain in effect until FTAs and FTPs are resolved.

- **No Driver License Holds:** We noted that the Superior Court does not use driver license holds for red light camera FTA, and pedestrian FTA and FTP, violations. As a result, the offenders can ignore these violations without repercussions. We noted that delinquent assessments for red light camera and pedestrian violations totaled $377 million as of December 2012.

  Superior Court management indicated that they cannot place driver license holds for red light camera FTAs because the person actually driving the vehicle cannot be identified with certainty, and did not sign a ticket promising to appear in court. However, we noted that another county does use driver license holds for red light camera FTAs. The Superior Court could also implement vehicle registration holds, as an alternative, to encourage registered owners to resolve the violations (e.g., identify actual driver, etc.).

  Superior Court management also indicated that holds for pedestrian violations are not possible because the violations are not related to driving. However, we noted that other government agencies place driver license holds without driving-related violations (e.g., not paying child support).

  Superior Court management should consider implementing driver license holds or another equivalent penalty (e.g., vehicle registration holds, etc.) for red light camera failure to pay violations and all pedestrian violations. It should be noted

that the Superior Court may need to request legislative changes for some of the penalties to take effect.

- **Driver License Hold Delays:** The Superior Court places driver license holds for FTAs immediately after the FTAs are processed in ETRS (14 days after missed court dates). However, FTP driver license holds are placed approximately six months after the payments are overdue. We noted that several counties process them immediately. Superior Court management should consider placing driver license holds for FTPs immediately after FTPs are processed in ETRS.

- **Court Scheduling:** Driver license holds for an offender's first FTA are removed when they request a new court date (holds are not removed for subsequent FTAs on the same ticket). However, some courthouses are scheduling the court dates from eight months to one year from when requests are made due to courtroom availability issues. This gives offenders who do not want to resolve the first FTA timely a maximum of 14 months without any repercussions (after accounting for DMV's suspension period). Superior Court management should consider removing the driver license holds for FTAs only after offenders appear in court. Offenders still have the option of appearing on a walk-in basis. The timeliness of scheduling court dates in general may also improve since fewer court dates will need to be scheduled for FTAs.

Recommendations

Superior Court management consider:

1. **Implementing driver license holds or another equivalent penalty (e.g., vehicle registration holds, etc.) for red light camera failure to appear violations and all pedestrian violations.**

2. **Placing driver license holds for all failure to pay violations immediately after they are processed in the Expanded Traffic Record System.**

3. **Removing driver license holds for failure to appear violations only after the offenders actually appear in court.**

II. Failure to Appear Improvements

The Superior Court's penalties for FTAs will not encourage offenders who deliberately ignore laws (i.e., drive with suspended license, never pay fines) to resolve violations. In addition, the more aggressive collection practices (e.g., garnish wages, etc.) permitted for FTPs cannot be used for FTAs since they have not been adjudicated. The Superior Court could improve collections by implementing some of the practices used by several other counties to increase FTA adjudications. We noted that some counties conduct trials "in absentia", which adjudicate FTAs without offenders being present based on the information available (e.g., ticket, law enforcement declaration, etc.). In addition, judges

in some counties issue bench warrants for offenders with FTA violations. If offenders have a bench warrant outstanding and are stopped by law enforcement, they will generally be arrested and held pending a court hearing. The Superior Court could apply these practices if offenders do not resolve FTAs after significant periods of time (e.g., one year, etc.).

Recommendation

4. **Superior Court management consider conducting trials in absentia and issuing bench warrants for failure to appear violations if the offenders do not resolve violations after significant periods of time.**

III. Failure to Pay Improvements

As indicated earlier, the Superior Court can use more aggressive collection practices for FTPs (i.e., garnish wages, levy bank accounts, intercept tax refunds, etc.) because they have been adjudicated. However, most of these practices require additional offender information (e.g., social security number, etc.) that is not included on traffic tickets. The traffic ticket information may also not be current. The Superior Court relies on GC Services to obtain the information during their collection operations, but they are not always successful. Superior Court management should consider developing a financial evaluation form that offenders must complete on their adjudication date if they will not be paying the full amount due. The form should include fields for the information needed to conduct all collection practices. We noted that another county uses a similar form.

Recommendation

5. **Superior Court management consider developing a financial evaluation form that offenders must complete on their adjudication date if they will not be paying the entire amount due, and including fields for the information needed to conduct all collection practices.**

IV. Payment Term Documentation

We noted that some courthouses do not give the offenders any documents that identify payment terms (e.g., amount due, due date, etc.) on the adjudication date. Instead, the judges tell the offenders to write down the information. This may cause confusion and leave the offenders with little recourse if the Superior Court makes mistakes recording payment terms. Superior Court management should ensure all courthouses provide offenders with an official document identifying payment terms on the adjudication date.

Recommendation

6. **Superior Court management ensure all courthouses provide offenders with an official document identifying payment terms on the adjudication date.**

Tracking Collection Operations

The Superior Court has several case management systems that track different court operations. However, we noted that these systems do not generate reports involving collections (e.g., collection rates, timeliness, etc.). We also noted that some of the systems do not keep historical collection information, or require significant manual processes to extract information. For example, ETRS deletes the traffic offense records 13 months after tickets are paid. The Superior Court also indicated that it would take months to extract available collection information from ETRS for only one month of traffic offenses. Without collection reports or historical information, we could not fully quantify and evaluate the effectiveness of the Superior Court's collection operations.

Superior Court management should consider implementing a comprehensive collection tracking system (e.g., special software, generic database, periodic queries from existing systems, etc.). The system should track multiple aspects of collections, including the collection rates, age of delinquent assessments, and collection processes. It should also track collections over time and account for the different agencies involved (i.e., Superior Court, GC Services, and FTB). In addition, the system should keep historical collection information (e.g., not delete records, etc.). A collection tracking system will increase transparency in the collection operations, and improve management decision-making.

Recommendation

7. **Superior Court management consider implementing a comprehensive collection tracking system.**

Delinquent Assessments

Superior Court management estimates that they have over $1.6 billion in accumulated delinquent assessments outstanding as of December 2012, based on GC Services' data. The following table is a summary of the estimate. However, it does not include all of the delinquent assessments, because some of them are not referred to GC Services (e.g., criminal fines, etc.).

TABLE 2 - SUMMARY OF ESTIMATED DELINQUENT ASSESSMENTS [DECEMBER 2012]

DELINQUENT ASSESSMENTS			DELINQUENT ASSESSMENT STATISTICS	
TRAFFIC ASSESSMENTS:			**AGENCY COLLECTING ASSESSMENTS:**	
GENERAL TRAFFIC [FAILURE TO APPEAR]	$ 662,490,525	41%	GC SERVICES	97%
GENERAL TRAFFIC [FAILURE TO PAY]	423,955,192	26%	FRANCHISE TAX BOARD	3%
PEDESTRIAN	233,909,357	14%		
RED LIGHT CAMERA VIOLATIONS	143,402,775	9%	**AGE OF ASSESSMENTS:**	
			LESS THAN 5 YEARS OLD	62%
TOTAL TRAFFIC ASSESSMENTS	**$1,463,757,849**		MORE THAN 5 YEARS OLD	38%
			COLLECTION STATUS:	
OTHER ASSESSMENTS:	**160,000,563**	10%	PARTIAL PAYMENT RECEIVED IN PRIOR 3 MONTHS	17%
			PENDING OUTCOME OF SCHEDULED COURT DATE	7%
TOTAL ASSESSMENTS:	**$1,623,758,412**		NO RECENT PAYMENT OR SCHEDULED COURT DATE	76%

The Superior Court will not be able to collect the full amount of delinquent assessments for various reasons. Many offenders do not respond to court obligations. For example, approximately 76% of the delinquent assessments have not had a recent payment or scheduled court date. The Superior Court also does not have the information needed to identify and locate offenders for some assessments (e.g., homeless, address change, etc.). In addition, judges can lower assessment amounts at their discretion when the offenders appear in court to resolve violations.

The likelihood of collecting delinquent assessments also decreases as they get older. As indicated above, approximately 38% of delinquent assessments are over five years old. We also noted that the older delinquent assessments are not always subject to the Superior Court's current collection practices. For example, the Superior Court started placing holds on driver licenses for unpaid traffic assessments in 2007, but only placed holds on assessments from 2004 and later. Assessments before 2004 were not subject to holds. Superior Court management indicated that they could not place driver license holds because the traffic conviction records had already been removed from the DMV's systems. As indicated earlier, some other government agencies can place the driver license holds without traffic convictions (e.g., not paying child support). Superior Court management should explore different methods of implementing new collection practices on all past delinquent assessments to encourage more offenders to resolve them.

Recommendation

8. Superior Court management explore different methods of implementing new collection practices on all past delinquent assessments.

Delinquent Assessment Write-Offs

In 2009, the Superior Court began reviewing delinquent assessments to identify which ones were uncollectable. They identified $2 million in uncollectable traffic assessments, and referred them to the County Treasurer and Tax Collector (TTC) to be written off. TTC conducted a pilot project to collect the $2 million, but could only collect $27,000 (1%). The remainder was written off. The Superior Court subsequently wrote off $29 million in different types of assessments and is currently planning on writing off an additional $51 million. The Superior Court did not have any documented policies for the

write-offs. It should also be noted that writing off assessments only stops the collection process. The assessments are not removed from the Superior Court's records, and the offenders remain liable.

Superior Court management indicated that they were working with TTC to develop a write-off policy, but decided to use the County Fiscal Manual (CFM) instead because it had similar requirements. However, the CFM write-off section may not be suitable for delinquent assessments. It primarily focuses on debts from County services, which have different characteristics than penalties for violating the law. In addition, some of the criteria for writing off debts (e.g., debtors' ability to pay, etc.) may not be appropriate for delinquent assessments. Superior Court management should consider developing policies for writing off delinquent assessments, and limiting write-offs to instances where the offenders are deceased or there is insufficient information available to identify or locate offenders after a specific period of time.

Recommendation

9. **Superior Court management consider developing policies for writing off delinquent assessments, and limiting write-offs to instances where the offenders are deceased or there is insufficient information available to identify or locate offenders after a specific period of time.**

Primary Collection Efforts – GC Services

The Superior Court refers nearly all delinquent assessments, totaling approximately $421 million annually, to GC Services for primary collection efforts. As noted above, GC Services is paid a 9.59% commission on the amount they collect.

Referral Period

The Superior Court works on collecting delinquent assessments for different periods of time before referring them to GC Services. The time periods vary based on the violation type, but do not exceed one month from when assessments become delinquent. We noted that the Superior Court could potentially collect more by themselves, and avoid paying a commission, by delaying referrals to GC Services. For example, the Superior Court generally refers FTA traffic assessments to GC Services one month after they are delinquent, but the driver license holds do not take effect with the DMV until later. Thus, GC Services benefits from the enforcement impact of the Superior Court's driver license holds. In addition, FTP traffic assessments are referred to GC services two weeks after they are delinquent. Some offenders may be willing to pay, but may not have enough time if they are out-of-town, waiting for additional funds (i.e., next paycheck), etc. In general, collection rates are higher earlier in the collection process. We noted that some other counties refer assessments to collection agencies up to six months after they are delinquent.

Recommendation

10. Superior Court management evaluate delaying referrals to GC Services.

Collection Process

GC Services' collection process begins by establishing contact with the offenders. GC Services cross-references offender addresses against change of address registries, and sends the offenders notification letters in English and Spanish that provide information on the delinquency (e.g., sent to collections, amount due, contact number, repercussions, etc.). If letters are returned as undeliverable, or offenders do not contact them, GC Services uses skip tracing techniques and resources (e.g., DMV records, private databases, acquaintances, etc.) to contact the offender. In addition, if offenders call GC Services, their phone numbers are logged for future reference.

GC Services contacts offenders to request payment at least once a month (i.e., calls, additional letters), and more often if the offenders express interest in, or default on, payment plans. GC Services modifies their approach based on the socio-economic information available, violation type, and time of year (e.g., tax refunds issued, etc.). They always request full payment and warn the offenders of repercussions first, then propose payment plans if unsuccessful. They also schedule court dates for traffic FTAs if the offenders dispute violations. In addition, GC Services uses various programs to encourage offenders to resolve traffic FTAs. They issue a temporary release of driver license holds when offenders schedule court dates or make a minimum payment of one-third the amount due and agree to pay the remaining balance in four months. Holds are reinstated if offenders do not appear in court or pay remaining balances. Furthermore, GC Services occasionally garnishes wages and levies property for certain high-value assessments that have sufficient offender information available.

We noted that GC Services' collection process generally complies with contract terms. We also compared their collection process to best practices and other counties, and did not identify any deficiencies. We have no recommendations for GC Services' collection process.

Collection Performance

GC Services generates performance activity reports that identify the total assessments referred by the Superior Court during each fiscal year, and collection activity associated with those referrals through the current fiscal year. The following table summarizes the collection activity associated with FY 2008-09 referrals through March 2013. Similar information for referrals in subsequent fiscal years is included on Attachment II.

TABLE 3 - FY 2008-09 GC SERVICES REFERRALS & ASSOCIATED COLLECTION ACTIVITY THROUGH MARCH 2013

	GROSS REFERRALS	ADJUDICATED ADJUSTMENTS	AA RATE	NET REFERRALS	AMOUNT COLLECTED	SUCCESS RATE	ADJUSTMENTS & COLLECTIONS	GROSS RECOVERY RATE
FAILURE TO APPEAR:								
TRAFFIC - GENERAL	$ 219,309,678	$ 92,305,651	42.1%	$ 127,004,027	$ 61,904,049	48.7%	$ 154,209,700	70.3%
TRAFFIC - RED LIGHT CAMERA	23,055,728	4,961,484	21.5%	18,094,244	3,460,891	19.1%	8,422,375	36.5%
TRAFFIC - PEDESTRIAN	40,971,701	6,395,101	15.6%	34,576,600	1,096,417	3.2%	7,491,518	18.3%
TOTAL	$ 283,337,107	$ 103,662,236	36.6%	$ 179,674,871	$ 66,461,357	37.0%	$ 170,123,593	60.0%
FAILURE TO PAY:								
TRAFFIC - GENERAL	$ 93,056,769	$ 3,011,872	3.2%	$ 90,044,897	$ 28,017,582	31.1%	$ 31,029,454	33.3%
TRAFFIC - RED LIGHT CAMERA	1,878,618	88,544	4.7%	1,790,074	313,737	17.5%	402,281	21.4%
CRIMINAL	12,603,640	200,116	1.6%	12,403,524	387,546	3.1%	587,662	4.7%
OTHER	5,419,724	362,095	6.7%	5,057,629	975,952	19.3%	1,338,047	24.7%
TOTAL	$ 112,958,751	$ 3,662,627	3.2%	$ 109,296,124	$ 29,694,817	27.2%	$ 33,357,444	29.5%

The Adjudicated Adjustments (AA) Rate identifies the decreases in assessment value, which are generally due to offenders appearing in court (i.e., judge adjusts assessment amounts lower). The Success Rate shows the percentage of assessments collected by GC Services after accounting for adjustments. In addition, the Gross Recovery (GR) Rate combines the AA Rate and Success Rate, and is an effective measurement of GC Services' performance in encouraging the offenders to resolve assessments.

We noted that the existing GC Services contract uses the Success and GR Rates as performance measures. However, the contract does not identify a benchmark for the GR Rate. In addition, it identifies a Success Rate benchmark (average of 15% for all violations), but does not indicate when GC Services needs to meet the benchmark (e.g., referral year, three years, etc.). We noted that GC Services generally meets the benchmark the year after they receive referrals. Superior Court management should consider developing benchmarks for the GR Rate and Success Rate over multiple periods of time, and including the benchmarks in future contracts.

We could not compare GC Services' collection performance to the collection agencies serving other counties because of the differences in referral time periods, collection processes, collection tracking methods, and offender socio-economic characteristics. However, we noted that GC Services' collections appeared to have generally been consistent from year-to-year. We also noted that some of the low collection rates may be attributable to the issues we identified earlier (e.g., lack of repercussions for red light camera and pedestrian violations, poor offender information, etc.), and some other counties have implemented practices that may improve collections.

Recommendation

11. Superior Court management consider developing benchmarks for the Gross Recovery Rate and Success Rate over multiple periods of time, and including the benchmarks in future contracts.

Reporting and Monitoring Requirements

The GC Services contract includes several reporting and monitoring requirements. We noted that GC Services submits all required reports to the Superior Court, except for an

aging of the delinquent assessments. The Superior Court is supposed to monitor the contract by reviewing reports and completing annual quality control plans to evaluate performance. We noted that Superior Court management meets with GC Services each month to review reports, discuss concerns, and monitor collection calls. However, they have not completed a quality control plan since 2011.

Recommendations

Superior Court management:

12. **Ensure GC Services submits all the reports required by the contract.**

13. **Complete quality control plans annually.**

Complaint Resolution

The GC Services contract includes complaint resolution requirements. GC Services must establish a phone number for offender comments, maintain transcripts of all calls, and track the status of all complaints. GC Services is required to immediately notify the Superior Court of any offender complaints, conduct a formal investigation, and provide a written report summarizing the results (e.g., disposition, corrective actions, etc.) within two weeks. We reviewed the complaint resolution process and noted that GC Services complies with contract requirements.

We noted that GC Services could provide better customer service if their telephone agents could access the Superior Court systems. If offenders have questions regarding their assessments (e.g., already paid, etc.), the agents have to contact courthouse staff to obtain information. Superior Court management should consider giving GC Services' telephone agents read-only access to necessary court systems.

Recommendation

14. **Superior Court management consider giving GC Services' telephone agents read-only access to necessary court systems.**

Secondary Collection Efforts – Franchise Tax Board

FTB's COD Program and IIC Program collect delinquent debt for government agencies. The COD Program garnishes wages, levies bank accounts, and attaches property to collect debts, and charges a 15% commission on the amount collected. The IIC Program intercepts tax refunds and charges $2.50 for each collection. GC Services refers delinquent FTP assessments to FTB programs on behalf of the Superior Court.

Assessments Referred to Franchise Tax Board

We noted that the Superior Court instructed GC Services to only refer certain criminal fees and juvenile dependency attorney fees to FTB. Criminal fees are primarily referred to the COD Program, and only referred to the IIC Program if they are rejected because of inaccurate offender information or not meeting requirements. Juvenile dependency attorney fees are only referred to the IIC Program. It should be noted that GC Services began referring fees to the IIC Program in 2012.

GC Services' current FTB referrals make up a small percentage of the delinquent FTP assessments (less than 15% of the amount GC Services receives annually). We noted that GC Services is only collecting 27% of all FTP assessments after five years, leaving a significant amount available for secondary collections. Superior Court management should consider expanding the use of both FTB collection programs to all of the FTP assessments.

In addition, your Board instructed the CEO to develop a Request for Proposal for tertiary court collection efforts for the Board's review upon completion of this audit. We recommend that before the CEO evaluates the feasibility of tertiary collections, the Superior Court should first fully use FTB for secondary collections.

Recommendation

15. Superior Court management consider expanding use of both California Franchise Tax Board collection programs to all delinquent failure to pay assessments.

Franchise Tax Board Referral Timeliness

GC Services' contract does not include specific requirements for referring the delinquent assessments to FTB. It indicates that GC Services must refer "selected" assessments to FTB three years after receiving the referrals, but does not define "selected". Superior Court management instructed GC Services to refer the assessments after three years if offenders have not enrolled in, or defaulted on, formal payment plans. Superior Court management should ensure future GC Services contracts include specific requirements for referring delinquent assessments to FTB.

We reviewed ten criminal fee assessments referred to GC Services in 2008, and noted that four (40%) were never referred to FTB, as required, even though they met eligibility requirements and the offenders were not enrolled in payment plans. Two offenders did not make any payments against assessments, and the other two offenders made their last payments before 2011. It should be noted that GC Services has little to no incentive to refer assessments to FTB because GC Services is not paid a commission on FTB collections. This may explain why GC Services did not refer these assessments to FTB. Superior Court management should develop a method of monitoring GC Services to ensure they refer delinquent assessments to FTB, as required.

We also noted that other counties refer delinquent assessments to FTB much earlier (e.g., six months, simultaneously with other collection programs, etc.). Earlier referrals could improve collections because FTB has more aggressive collection practices. For example, GC Services could only collect 2.2% of the criminal fee assessments after two years, but FTB's COD Program, which receives the assessments later in the collection process, collects approximately 7.9% after two years. In addition, some counties refer assessments to both of the FTB Programs concurrently. They indicated that improving the collection rates outweighed the potential overpayment difficulties. Superior Court management should evaluate referring delinquent assessments to FTB programs earlier and concurrently.

Recommendations

Superior Court management:

16. **Ensure future GC Services contracts include specific requirements for referring delinquent assessments to the California Franchise Tax Board.**

17. **Develop methods of monitoring GC Services to ensure they refer the delinquent assessments to the California Franchise Tax Board, as required.**

18. **Evaluate referring delinquent assessments to the California Franchise Tax Board's Programs earlier and concurrently.**

County Monitoring, Oversight & Budgetary Concerns

County Monitoring and Oversight

As indicated earlier, the Superior Court does not generate operating revenue from their collections. Consequently, they do not directly benefit from improvements in collections and do not have an incentive to maximize collection efforts. Since the County relies on collection revenue to help offset its County-responsible court operation costs, it is in the County's best interest to ensure that the collection operations are effective and efficient. The Board and the CEO should consider expanding oversight of the Superior Court's collection operations by evaluating how the Superior Court manages and analyzes collection operations in their Revenue Enhancement Unit, the primary and secondary collection areas. The CEO should request the Superior Court to provide ongoing feedback on collection practices, including the overall effectiveness and efficiency of collection operations. Additionally, the Board and the CEO should consider assigning some part of collection responsibilities to TTC.

Recommendations

The Board and CEO consider:

19. **Expanding oversight of the Superior Court's collection operations by evaluating how the Superior Court manages and analyzes collection operations in their Revenue Enhancement unit, the primary, and secondary collection areas, and requesting the Superior Court to provide ongoing feedback on collection practices, including the overall effectiveness and efficiency of collection operations.**

20. **Assigning some part of collection responsibilities to the Treasurer and Tax Collector.**

County Budgetary Concerns

As indicated earlier, the County incurs approximately $253.5 million annually in NCC to support certain County-responsible functions and their associated expenditures as the County's obligation under the law. This is a significant cost and a burden to the County's funding source based on the terms of the 1997 Trial Court Funding Act, a more than a decade old legislation. Since the County has minimal input into the Superior Court's operations, and the legislation reflects the operating conditions from 16 years ago, the Board should consider advocating for the State legislature to reevaluate the Trial Court Funding Act to determine whether modifications to its terms would better serve the interests of the County.

Recommendation

21. **The Board consider advocating for the State legislature to reevaluate the Trial Court Funding Act to determine whether modifications to its terms would better serve the interests of the County.**

LOS ANGELES COUNTY SUPERIOR COURT
COLLECTIONS OPERATIONS REVIEW

GC SERVICES COLLECTION ACTIVITY

FY 2008-09 GC SERVICES REFERRALS & ASSOCIATED COLLECTION ACTIVITY THROUGH MARCH 2013

	GROSS REFERRALS	ADJUDICATED ADJUSTMENTS	AA RATE	NET REFERRALS	AMOUNT COLLECTED	SUCCESS RATE	ADJUSTMENTS & COLLECTIONS	GROSS RECOVERY RATE
FAILURE TO APPEAR:								
TRAFFIC - GENERAL	$ 219,309,678	$ 92,305,651	42.1%	$ 127,004,027	$ 61,904,049	48.7%	$ 154,209,700	70.3%
TRAFFIC - RED LIGHT CAMERA	23,055,728	4,961,484	21.5%	18,094,244	3,460,891	19.1%	8,422,375	36.5%
TRAFFIC - PEDESTRIAN	40,971,701	6,395,101	15.6%	34,576,600	1,096,417	3.2%	7,491,518	18.3%
TOTAL	**$ 283,337,107**	**$ 103,662,236**	**36.6%**	**$ 179,674,871**	**$ 66,461,357**	**37.0%**	**$ 170,123,593**	**60.0%**
FAILURE TO PAY:								
TRAFFIC - GENERAL	$ 93,056,769	$ 3,011,872	3.2%	$ 90,044,897	$ 28,017,582	31.1%	$ 31,029,454	33.3%
TRAFFIC - RED LIGHT CAMERA	1,878,618	88,544	4.7%	1,790,074	313,737	17.5%	402,281	21.4%
CRIMINAL	12,603,640	200,116	1.6%	12,403,524	387,546	3.1%	587,662	4.7%
OTHER	5,419,724	362,095	6.7%	5,057,629	975,952	19.3%	1,338,047	24.7%
TOTAL	**$ 112,958,751**	**$ 3,662,627**	**3.2%**	**$ 109,296,124**	**$ 29,694,817**	**27.2%**	**$ 33,357,444**	**29.5%**

FY 2009-10 GC SERVICES REFERRALS & ASSOCIATED COLLECTION ACTIVITY THROUGH MARCH 2013

	GROSS REFERRALS	ADJUDICATED ADJUSTMENTS	AA RATE	NET REFERRALS	AMOUNT COLLECTED	SUCCESS RATE	ADJUSTMENTS & COLLECTIONS	GROSS RECOVERY RATE
FAILURE TO APPEAR:								
TRAFFIC - GENERAL	$ 241,743,072	$ 91,829,828	38.0%	$ 149,913,244	$ 64,972,780	43.3%	$ 156,802,608	64.9%
TRAFFIC - RED LIGHT CAMERA	28,337,585	5,557,610	19.6%	22,779,975	3,765,921	16.5%	9,323,531	32.9%
TRAFFIC - PEDESTRIAN	43,080,391	4,689,588	10.9%	38,390,803	912,724	2.4%	5,602,312	13.0%
TOTAL	**$ 313,161,048**	**$ 102,077,026**	**32.6%**	**$ 211,084,022**	**$ 69,651,425**	**33.0%**	**$ 171,728,451**	**54.8%**
FAILURE TO PAY:								
TRAFFIC - GENERAL	$ 100,502,704	$ 2,284,915	2.3%	$ 98,217,789	$ 27,091,416	27.6%	$ 29,376,331	29.2%
TRAFFIC - RED LIGHT CAMERA	2,615,759	99,188	3.8%	2,516,572	406,622	16.2%	505,810	19.3%
CRIMINAL	13,711,154	215,145	1.6%	13,496,009	411,779	3.1%	626,924	4.6%
OTHER	5,350,068	243,107	4.5%	5,106,961	961,965	18.8%	1,205,072	22.5%
TOTAL	**$ 122,179,685**	**$ 2,842,355**	**2.3%**	**$ 119,337,331**	**$ 28,871,782**	**24.2%**	**$ 31,714,137**	**26.0%**

FY 2010-11 GC SERVICES REFERRALS & ASSOCIATED COLLECTION ACTIVITY THROUGH MARCH 2013

	GROSS REFERRALS	ADJUDICATED ADJUSTMENTS	AA RATE	NET REFERRALS	AMOUNT COLLECTED	SUCCESS RATE	ADJUSTMENTS & COLLECTIONS	GROSS RECOVERY RATE
FAILURE TO APPEAR:								
TRAFFIC - GENERAL	$ 235,243,232	$ 72,722,468	30.9%	$ 162,520,764	$ 56,086,065	34.5%	$ 128,808,533	54.8%
TRAFFIC - RED LIGHT CAMERA	32,203,764	4,938,719	15.3%	27,265,045	3,358,288	12.3%	8,297,007	25.8%
TRAFFIC - PEDESTRIAN	36,504,707	2,629,282	7.2%	33,875,425	678,806	2.0%	3,308,088	9.1%
TOTAL	**$ 303,951,703**	**$ 80,290,469**	**26.4%**	**$ 223,661,234**	**$ 60,123,159**	**26.9%**	**$ 140,413,628**	**46.2%**
FAILURE TO PAY:								
TRAFFIC - GENERAL	$ 93,999,876	$ 1,898,114	2.0%	$ 92,101,762	$ 23,102,937	25.1%	$ 25,001,051	26.6%
TRAFFIC - RED LIGHT CAMERA	2,739,091	105,963	3.9%	2,633,128	377,151	14.3%	483,114	17.6%
CRIMINAL	12,455,617	63,069	0.5%	12,392,548	338,075	2.7%	401,144	3.2%
OTHER	6,220,553	228,449	3.7%	5,992,104	1,172,513	19.6%	1,400,962	22.5%
TOTAL	**$ 115,415,137**	**$ 2,295,595**	**2.0%**	**$ 113,119,542**	**$ 24,990,676**	**22.1%**	**$ 27,286,271**	**23.6%**

LOS ANGELES COUNTY SUPERIOR COURT
COLLECTIONS OPERATIONS REVIEW

GC SERVICES COLLECTION ACTIVITY

FY 2011-12 GC SERVICES REFERRALS & ASSOCIATED COLLECTION ACTIVITY THROUGH MARCH 2013								
	GROSS REFERRALS	ADJUDICATED ADJUSTMENTS	AA RATE	NET REFERRALS	AMOUNT COLLECTED	SUCCESS RATE	ADJUSTMENTS & COLLECTIONS	GROSS RECOVERY RATE
FAILURE TO APPEAR:								
TRAFFIC - GENERAL	$ 232,740,680	$ 41,616,837	17.9%	$ 191,123,843	$ 41,596,103	21.8%	$ 83,212,940	35.8%
TRAFFIC - RED LIGHT CAMERA	38,142,842	3,461,353	9.1%	34,681,489	2,947,291	8.5%	6,408,644	16.8%
TRAFFIC - PEDESTRIAN	33,294,375	1,184,690	3.6%	32,109,685	500,974	1.6%	1,685,664	5.1%
TOTAL	**$ 304,177,897**	**$ 46,262,880**	**15.2%**	**$ 257,915,017**	**$ 45,044,368**	**17.5%**	**$ 91,307,248**	**30.0%**
FAILURE TO PAY:								
TRAFFIC - GENERAL	$ 106,455,079	$ 1,183,248	1.1%	$ 105,271,831	$ 19,349,453	18.4%	$ 20,532,701	19.3%
TRAFFIC - RED LIGHT CAMERA	3,094,362	56,936	1.8%	3,037,426	396,280	13.0%	453,216	14.6%
CRIMINAL	14,645,720	39,057	0.3%	14,606,663	253,328	1.7%	292,385	2.0%
OTHER	5,368,986	147,970	2.8%	5,221,016	924,935	17.7%	1,072,905	20.0%
TOTAL	**$ 129,564,147**	**$ 1,427,211**	**1.1%**	**$ 128,136,936**	**$ 20,923,996**	**16.3%**	**$ 22,351,207**	**17.3%**

AVERAGE SUCCESS RATES IN REFERRAL YEAR AND FOLLOWING THREE YEARS				
	REFERRAL YEAR	SECOND YEAR	THIRD YEAR	FOURTH YEAR
FAILURE TO APPEAR:				
TRAFFIC - GENERAL	12.89%	15.15%	9.29%	5.64%
TRAFFIC - RED LIGHT CAMERA	7.51%	4.64%	2.16%	1.01%
TRAFFIC - PEDESTRIAN	1.03%	0.82%	0.45%	0.32%
TOTAL	**10.37%**	**11.49%**	**6.89%**	**4.15%**
FAILURE TO PAY:				
TRAFFIC - GENERAL	7.96%	11.89%	5.82%	4.02%
TRAFFIC - RED LIGHT CAMERA	8.69%	4.36%	2.26%	1.61%
CRIMINAL	1.27%	0.97%	0.45%	0.32%
OTHER	14.13%	4.55%	0.58%	0.14%
TOTAL	**7.50%**	**10.17%**	**4.91%**	**3.38%**
COMBINED TOTAL:	**9.36%**	**11.02%**	**6.16%**	**3.86%**

ATTACHMENT III

William H. Mitchell
INTERIM EXECUTIVE OFFICER / CLERK

111 NORTH HILL STREET
LOS ANGELES, CA 90012-3014

Superior Court of California
County of Los Angeles

July 29, 2013

Wendy L. Watanabe, Auditor-Controller
Executive Office
500 W. Temple Street, Room 525
Los Angeles, CA 90012

Dear Ms. Watanabe:

RESPONSE TO COLLECTIONS OPERATIONS REVIEW

Thank you for the opportunity to review the Auditor-Controller's draft report regarding the Los Angeles County's existing court collections contract.

The Los Angeles Superior Court will provide a detailed response to the Board of Supervisors within 60 days.

If you have any questions or require additional information, please do not hesitate to contact me or your staff may contact Rene' Phillips at (213) 974-5106.

Sincerely,

William H. Mitchell, Interim Executive Officer/Clerk

WHM:rcp

c: David S. Wesley, Presiding Judge
Carolyn B. Kuhl, Assistant Presiding Judge