CITY OF COSTA MESA

P.O. BOX 1200 CALIFORNIA 92628-1200

FROM THE OFFICE OF JOHN D. HENSLEY, CHIEF OF POLICE

February 28, 2006

Honorable Nancy Wieben-Stock
Presiding Judge
Orange County Superior Court – Dept. C101
700 Civic Center West
Santa Ana, CA. 92702

RE: Annual Response to Orange County Grand Jury 2004-2005 Report
Red Light Cameras: Automated Traffic Cops in Orange County

Dear Judge Wieben-Stock:

This progress letter of response is being submitted to you in compliance with California Penal Code Sections 933 and 933.05. The original letter was mailed on August 1, 2005 and included our initial response. This letter contains the original format that was previously submitted, as well as our latest progress.

According to the Orange County Grand Jury, annual responses are required by March 31 of every year, until each item originally addressed has been implemented. The current progress to each item previously addressed is documented in bold print below our original response. The responses provided correspond to the respective item numbers in the report from the Grand Jury.

The City of Costa Mesa appreciates the interest of the Grand Jury in regard to red light cameras in our community. This letter will serve as a joint response from the Costa Mesa City Council and the Costa Mesa Police Chief.

6. Findings

6.1 **Camera revenues**: *The five cities in Orange County using RLCs are unable to determine through existing accounting systems how much revenue the cameras are producing. Cities should have this information to make informed decisions about RLCs.*

Response: The City of Costa Mesa agrees with this finding. Historically, the data available to the City from the Court has not afforded the ability to match red light revenue received from the Court with the specific list of red light camera citations for which the revenue was generated. During the past couple of months, the City's Finance Department has been working with the Centralized Accounting Unit of Orange County Superior Court - CJC. The City has requested to be provided with a report to breakdown red light camera revenue by citation. The Court subsequently provided a sample report for red light camera revenue generated exclusively during the month of January 2005. This report was said to have been somewhat labor intensive to produce by the Centralized Accounting Unit staff. While this may be true, it is the City's goal to be able to receive reports of this nature on a monthly basis.

Progress: Since our initial report on July 26 2005, efforts have been made to accurately track the amount of revenue generated by the operation of red light cameras. For example, on September 19 2005, the City of Costa Mesa hosted a meeting with representatives from each of the five cities in Orange County that operate a red light camera program. Our goal, as recommended by the Orange County Grand Jury, is to work together with the Orange County Superior Court to resolve accounting and reporting issues to determine the net operating effects of our red light camera programs.

On October 11 2005, we submitted a letter to Alan Slater (Chief Executive Officer of Orange County Superior Court) addressing the intent of the five cities to receive a monthly RLC report with three options for his staff's consideration. To date, the Court has not responded to the letter (see attached letter).

6.2 **Unpaid citations:** *Approximately 33 percent of all RLC citations issued by the five cities in 2004 were not paid, leading to potentially significant, but unknown, losses in revenue to the cities, the county, and the state.*

Response: The City of Costa Mesa agrees with, or at least cannot dispute, this finding, as we do not have the data from all five cities to claim otherwise. A review of the red light camera citations filed in 2004 by the City of Costa Mesa revealed that only 6.49% of the citations remain open (as of June 30, 2005).

If all 996 of these open cites were to be paid, it would generate over $325,000 of additional revenue for the City of Costa Mesa, the County of Orange and the State of California.

In an effort to improve the percentage of red light camera citations that reach final disposition, the City of Costa Mesa intends to implement an additional procedure that is within an existing policy established by the Executive Committee of the Orange County Superior Court (Title: Filing and Processing of Photo Red Light Citations). The finer points of the procedure are yet to be established between the City of Costa Mesa and the Harbor Justice Center, however, the framework for the procedure is already spelled out in the Court's policy. The purpose of the policy is to address the violators who fail to respond to their red light camera citations. Red light camera citations that involve violators who fail to appear for their scheduled hearing date will be reported back to the originating law enforcement agency 60 days from the filing date of the citation. The issuing agency will perform a Soundex (DMV Driver License photo) photograph comparison of the alleged violator with the driver image captured during the original red light camera violation. In such cases where the Soundex photograph matches the driver's image from the red light camera violation, the issuing agency will return the Soundex photograph along with a signed affidavit (In Support of Request for DMV Hold on Driver License) to the court. The court may then process the matter pursuant to California Penal Code Section 1214.1 (Civil assessment for failure to appear).

Should the violator fail to respond to the Court's subsequent notice (CPC 1214.1), the Court may impose a $250 civil assessment, a California Department of Motor Vehicles Driver License hold pursuant to California Vehicle Code Section 40509.5(a) (Notice to Department: Failure to Appear) and submit to the Franchise Tax Board Court-Ordered Debt (FTBCOD) and Franchise Tax Board Tax Intercept (FTBTI).

Note that the above procedure is an additional assessment and not in lieu of the responsibility of the violator to respond to the original red light camera citation. The procedure will certainly create an additional workload for the staff of the Court and the originating law enforcement agency. It is anticipated that implementation of the procedure will reduce the loss of red light camera citation revenue to the City of Costa Mesa, the County of Orange, and the State of California.

Progress: In October 2005, we have implemented the Civil Assessment Protocol for offenders who fail to appear or pay their fines. This recommendation is complete.

6.3 **Police Officers:** *Currently, only sworn police officers in each city determine which RLC citations to issue. This may take officers away from more critical assignments.*

Response: The City of Costa Mesa disagrees partially with this finding. The Costa Mesa Police Department currently utilizes only sworn police officers to determine which red light camera citations to issue. However, at this time it is the City's contention that sworn police officers are best suited for this function based upon the level of training and experience that sworn police officers possess. There are a variety of factors that should be considered when viewing red light camera video images and determining whether or not to issue a citation. The sworn police officer that has field experience with traffic enforcement, accident investigation, and courtroom testimony is in the best position to make the decision about citation issuance.

Notwithstanding the above paragraph, the Costa Mesa Police Department will continue to explore and re-evaluate the option of utilizing civilian police department employees for various red light camera program functions. This will be particularly important as the City is currently in discussions with our red light camera vendor regarding adding additional approaches to our system.

Progress: To date, the Police Department has trained civilian employees to review red light camera violations captured on video, issue citations, and perform civil assessment functions. Designated civilian personnel are in process of being trained to California State Commission on Peace Officer Standards and Training (P.O.S.T.) as Traffic Accident Investigators to assist in elevating the level of training and experience to that of a sworn police officer. The Police Department has begun to phase civilian personnel into the processing of RLC citations. The Police Department will continue to utilize police officers for Court testimony and presentation. This recommendation is complete.

7. Recommendations

7.1 **Camera revenues and unpaid citations:** *The five cities in Orange County using RLCs should seek, independently or jointly, to resolve accounting/reporting issues so that they can accurately determine the net operating effects of their RLCs and recover any lost revenues.*

Response: This recommendation will be implemented. During the past couple of months, the City's Finance Department has been working with the Centralized Accounting Unit of Orange County Superior Court - CJC. The City has requested to be provided with a report to breakdown red light camera revenue by citation. The Court subsequently provided a sample report for red light camera revenue generated exclusively during the month of January 2005. This report was said to have been somewhat labor intensive to produce by the Centralized Accounting Unit staff. While this may be true, it is the City's desire to be able to receive reports of this nature on a monthly basis. As necessary, the City will attempt to facilitate meetings with the appropriate staff from the five cities in Orange County using RLCs in order to develop consistent need requirements that can be presented to the involved courts.

In an effort to improve the percentage of red light camera citations that reach final disposition, the City of Costa Mesa intends to implement an additional procedure that is within an existing policy established by the Executive Committee of the Orange County Superior Court (Title: Filing and Processing of Photo Red Light Citations). The finer points of the procedure are yet to be established between the City of Costa Mesa and the Harbor Justice Center, however, the framework for the procedure is already spelled out in the Court's policy. The purpose of the policy is to address the violators who fail to respond to their red light camera citations. Red light camera citations that involve violators who fail to appear for their scheduled hearing date will be reported back to the originating law enforcement agency 60 days from the filing date of the citation. The issuing agency will perform a Soundex (DMV Driver License photo) photograph comparison of the alleged violator with the driver image captured during the original red light camera violation. In such cases where the Soundex photograph matches the driver's image from the red light camera violation, the issuing agency will return the Soundex photograph along with a signed affidavit (In Support of Request for DMV Hold on Driver License) to the Court. The Court may

then process the matter pursuant to California Penal Code Section 1214.1 (Civil assessment for failure to appear).

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Note that the above procedure is an additional assessment and not in lieu of the responsibility of the violator to respond to the original red light camera citation. The procedure will certainly create an additional workload for the staff of the Court and the originating law enforcement agency. It is anticipated that implementation of the procedure will reduce the loss of red light camera citation revenue to the City of Costa Mesa, the County of Orange, and the State of California.

Timeframe: The City expects to be able to implement this recommendation within the next 12 months.

Progress: We have implemented this program in August of 2005. On September 27 2005, we delivered our first, "batch" of our unpaid citations back to the Court for Civil Assessment proceeding. "Batch" processing is a term that the Court refers to in describing the handling of unpaid citations involving red light camera violations. All outstanding citations in Costa Mesa that have not been paid are currently in the process of Civil Assessment. This recommendation is complete.

7.2 **Police Officers:** *The five cities in Orange County using RLCs should explore the possibility of training and using non-sworn law enforcement personnel for the task of determining which RLC citations to issue to reduce costs and return sworn officers to more critical assignments.*

Response: The recommendation has been implemented. The City of Costa Mesa has explored the possibility of utilizing civilian law enforcement personnel for the task of determining which RLC citations to issue. The Costa Mesa Police Department utilizes only sworn police officers to determine which red light camera citations to issue. At this time it is the City's contention that sworn police officers are best suited for

this function based upon the level of training and experience that sworn police officers possess. There are a variety of factors that should be considered when viewing red light camera video images and determining whether or not to issue a citation. The sworn police officer that has field experience with traffic enforcement, accident investigation, and courtroom testimony is in the best position to make the decision about citation issuance.

Notwithstanding the above paragraph, the Costa Mesa Police Department will continue to explore and re-evaluate the option of utilizing civilian police department employees for various red light camera program functions. This will be particularly important as the City is currently in discussions with our red light camera vendor regarding adding additional approaches to our system.

Progress: We have implemented the use of civilian personnel for processing RLC citations. One of our goals is to keep uniformed officers on the street serving in the traffic safety function. We determined civilians could be utilized to minimize the operating expenses of the RLC program. Most of the labor associated with the RLC program involves the viewing of the video, first, to issue the citation and secondly, at the request of the violator to view the captured event. Initially, civilians will have a limited function, largely due to the amount of training required to operate the system. As the civilians become fully trained in the RLC program, we will decrease the amount of time sworn police officers spend managing the program and incrementally return them back to uniformed traffic safety duties.

On February 22, 2005 Nestor Systems Inc. provided training to our designated civilians. The selected civilians have already been trained per section Penal Code section 832 (powers of arrest). With officer oversight, civilian personnel will review the video images for consideration of issuance. This procedure and usage of civilians has been a success and is currently utilized in the City of Fullerton. According to our legal review, there does not appear to be any legal impediment in using civilian personnel, as long as they are under the direct supervision of police personnel. This recommendation is complete.

It is our sincere hope that the foregoing responses sufficiently addressed the issues that emerged from the Grand Jury report. All of the recommendations by the Grand Jury have been implemented, with the exception of 6.1 (Camera Revenues). From our perspective, we have completed our portion of this recommendation and are currently waiting for the Court's response to implement the monthly reporting.

If you desire any additional information, please contact Lt. Dave Andersen, Traffic Safety Bureau Commander, at (714) 754-4967.

Sincerely,

ALLAN MANSOOR,
Mayor

JOHN D. HENSLEY,
Chief of Police

Copies: City Council
City Manager
City Attorney