

RED LIGHT CAMERA PROGRAMS

Although They Have Contributed to a Reduction in Accidents, Operational Weaknesses Exist at the Local Level

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Audit responses as of September 2002 to December 2002¹

Audit Highlights . . .

Red light cameras have contributed to a reduction of accidents; however, our review of seven local governments found weaknesses in the way they are operating their programs that make them vulnerable to legal challenge. Specifically, we found that the local governments:

- Need to more rigorously supervise vendors to maintain control of their programs.*
- All but one would use photographs as evidence in criminal proceedings even though it would appear to conflict with the law governing the program.*
- Generally follow required time intervals for yellow lights.*

Of the local governments we visited, only San Diego and Oxnard have generated significant revenue from their red light camera programs.

Our review of available data shows that red light accident rates decreased between 3 percent and 21 percent after red light cameras were installed by five of the local governments in our sample.

The Joint Legislative Audit Committee (audit committee) asked us to review the implementation, application, and efficacy of red light camera programs statewide. We found that accidents related to motorists running red lights have generally decreased where local governments have employed cameras. However, the seven local governments we reviewed—Fremont, Oxnard, Los Angeles County (Los Angeles), Long Beach, the city of San Diego (San Diego), the city of Sacramento (Sacramento), and the city and county of San Francisco (San Francisco)—need to make operational improvements to maintain effective control of their programs, comply with state law, and avoid legal challenges.

Finding #1: Local governments have been challenged on their control of red light camera programs.

Several local governments have been taken to court by alleged red light violators who claim that the local governments are not operating their red light camera programs as required under the law. Although the law stipulates that only a government agency, in cooperation with a law enforcement agency, can operate a program, it offers no further explanation or definition of what operate means, leaving the term open to interpretation. Because local governments contract out the bulk of services for these programs, private sector vendors inevitably play an important role. However, if municipalities delegate too much responsibility, they run the risk of their program being perceived as vendor controlled. For example, a court found that San Diego failed to satisfy the plain meaning of the word operate and that it had no

¹ Each of the seven auditee's responses were received on the following dates: San Francisco and Los Angeles, September 2002; Fremont, October 2002; Long Beach, San Diego, and Oxnard, November 2002; and Sacramento, December 2002.

involvement with or supervision over, the ongoing operation of the program and concluded that San Diego exhibited a lack of oversight. San Francisco is in the early stages of defending itself against a similar lawsuit. However, a court ruled in favor of Beverly Hills, which was also the subject of a lawsuit alleging concerns over program operations like those in San Diego.

We recommended that to ensure local governments maintain control and operate their red light camera programs and avoid legal challenge, the Legislature should consider clarifying the law to define the tasks that a local government must perform to operate a red light camera program and the tasks that can be delegated to a vendor.

Legislative Action: None.

No legislative action found.

Finding #2: Local governments must more rigorously supervise vendors to retain program control.

We found that the local governments we visited do not exercise enough oversight of their vendors to avoid the risk of legal challenge over who operates their red light camera programs. Best practices for oversight consists of several elements to monitor and control vendor activities. Such oversight includes strong provisions in local governments' contracts with vendors to protect the confidentiality of motorists' photographs and personal data, making periodic site visits to inspect the vendor's operations for compliance with the law and contract terms, establishing criteria for screening violations, having controls in place to ensure that the vendor only mails properly authorized and approved citations, making decisions as to how long certain confidential data should be retained, and conducting periodic technical inspections of red light camera intersections. However, at the outset of our review, we found that the seven local governments did not exhibit all of the oversight elements we believe are needed to avoid legal challenge. After our inquiries, Long Beach took steps to amend the contract with its vendor to address two elements of oversight that were absent.

To maintain control over their programs and minimize the risk of legal challenges, we recommended that local governments conduct more rigorous oversight of vendors by employing all of the oversight elements we identified.

Local Government Action: Partial corrective action taken.

The seven local governments for which this finding applied reported the following corrective actions:

Fremont: Fremont reports that it has begun weekly spot checks of intersections with red light cameras and during its next visit of the vendor's operations, Fremont will discuss with the vendor the criteria it uses to purge confidential documents. Fremont did not report action on our finding that it lacks a specific contract provision that makes the misuse of the photographs a breach of the contract.

Long Beach: Long Beach reports amending its vendor contract to specifically state that photographs are confidential and to include a provision on when to destroy confidential documents. Further, Long Beach reports implementing a procedure to reconcile citations it has approved against those that the vendor has mailed.

Los Angeles: Los Angeles reports taking several actions to address our recommendations. In August 2002, it conducted an oversight visit of the vendor and it plans to perform other visits periodically. During future visits, Los Angeles intends to review a sample of photographs and citations to ensure that only authorized violation photographs result in a citation being mailed to the registered owner of the offending vehicles. In regards to developing business rules, Los Angeles believes that the contract with its vendor includes sufficiently detailed procedures for screening and processing violations, but plans to add clauses to specify the appropriate time periods for destruction of confidential information and to protect the confidentiality of this information. Finally, Los Angeles is evaluating whether to use an independent engineering firm to review camera settings and calibration.

Oxnard: Oxnard indicates that it will be changing vendors in early 2003 and that it intends to incorporate our recommendations into the contract with the new vendor.

Sacramento: Sacramento reports restarting its program in October 2002 as a joint photo enforcement program with the Sacramento County Sheriff's Department (sheriff's department). Under the supervision of sheriff's department staff, Sacramento City police officers now perform the citation screening, processing, and mailing functions that the vendor previously performed. The vendor continues to maintain the cameras, develop the film and convert it to

digital images, and archive the film. However, Sacramento indicates that it will continue to retain all photographs relating to unenforced citations for three years because the city attorney believes it is necessary to comply with California Government Code, Section 34090 and a city council resolution. Also, Sacramento does not intend to review the need for revising the contract language for protecting the confidentiality of photographs until the contract expires.

San Diego: San Diego indicates that it will be restarting the program using the same vendor and that the revised vendor contract will incorporate our recommendations. Specifically, San Diego reports that it has developed business rules to provide accountability over the vendor as well as to ensure San Diego's maintenance and proper control over the program. In addition, San Diego plans to perform ongoing inspections of the vendor's operations.

San Francisco: San Francisco reports taking several actions to address our recommendations. It now conducts all team meetings at the vendor's facility and intends to inspect the vendor's facility to ensure that confidential information is being safeguarded. In addition, San Francisco plans to conduct quarterly inspections of camera settings and to determine whether the system is functioning properly. Further, every two months, San Francisco indicates it will reconcile authorized citations with those mailed to ensure that only authorized citations are mailed. Finally, it has amended the vendor contract to require the vendor to destroy all data related to unenforced violations.

Finding #3: Most local governments believe photographs can be used for other law enforcement purposes.

According to state law, photographs captured by red light cameras are to be used only for enforcing compliance with traffic signals. However, local governments have differing interpretations of the confidentiality of the photographs taken by red light cameras. Six of the seven local governments in our sample acknowledged that they have used or would use the photographs for purposes other than enforcing red light violations, such as investigating unrelated crimes. According to our legal counsel, a literal reading of the statute prohibits use of the photographs for purposes other than to prosecute motorists for running red lights. However, several jurisdictions believe that other laws, as well as the California Constitution,

would permit the use of red light photographs as evidence in criminal proceedings. According to our legal counsel, in view of the conflicting interpretation of the law, the courts will ultimately decide whether local governments are violating the red light camera law when they use photographs in criminal investigations. The California Constitution also provides that with a two-thirds vote of its members, the Legislature can specifically exclude certain evidence from criminal proceedings, and according to our legal counsel, this would likely include photographs related to traffic signal enforcement.

Because a potential conflict exists between the confidentiality provision in the Vehicle Code and the California Constitution regarding the admissibility of evidence, we recommended that the Legislature consider clarifying the Vehicle Code to state whether photographs taken by red light cameras can be used for other law enforcement purposes.

Legislative Action: None.

No legislative action found.

Finding #4: Local governments may not have addressed engineering improvements before installing red light cameras.

Although we found that traffic safety was usually the reason for selecting intersections for red light camera enforcement, we could not always verify that local governments addressed engineering solutions before placing red light cameras at intersections. The Federal Highway Administration recommends that before installing a red light camera system, traffic engineers review the engineering aspects of the potential sites to determine whether the problem of vehicles running red lights could be mitigated by engineering changes or improvements. San Francisco best demonstrated that it met this best practice, while the other local governments we visited conducted their engineering improvements on a more informal and ongoing basis.

We recommended that before installing red light cameras, local governments should first consider whether engineering measures, such as improving signal light visibility or using warning signs to alert motorists of an upcoming traffic signal, would improve traffic safety and be more effective in addressing red light violations.

Local Government Action: Partial corrective action taken.

The six local governments for which this finding applied reported the following corrective actions:

- ➔ **Fremont:** Fremont has not reported the action it plans to take on this recommendation.
- Long Beach:** In its response to the audit, Long Beach indicated that for all future locations, it would conduct a specific engineering review to determine if there are any engineering measures not previously noted that could be applied to potentially reduce red light violations.
- ➔ **Los Angeles:** Los Angeles has not reported the action it plans to take on this recommendation.
- Oxnard:** Oxnard indicates that it will be changing vendors in early 2003 and that it intends to incorporate this recommendation into the program at that time.
- ➔ **Sacramento:** Although Sacramento indicates that engineering improvements should be addressed before using red light cameras, it has not reported how it will address this recommendation.
- ➔ **San Diego:** Although San Diego indicates that the police and transportation departments will be working closely in a more clearly defined partnership to manage the program, San Diego has not reported how it will address this recommendation.

Finding #5: Some local governments bypassed state-owned intersections with high accident rates.

Caltrans allows red light cameras at state-owned intersections but requires an encroachment permit for construction. The time it takes to obtain an encroachment permit—which grants the local government access to a state right-of-way for construction—was viewed differently among the local governments we visited. Fremont and Long Beach avoided placing red light cameras at state-owned intersections because they anticipated that the Caltrans permitting process would be too cumbersome and would unnecessarily delay the start of their programs. San Diego stated that Caltrans was unwilling to allow red light cameras on state-owned intersections, but the city could not provide evidence of Caltrans' refusal. Also, Los Angeles did not consider state-owned intersections for its program. By avoiding state-owned intersections, these local governments failed to place cameras at some of the more dangerous intersections within their jurisdictions.

To focus on traffic safety and to avoid overlooking high-accident locations that are state owned when considering where to place red light cameras, we recommended that local governments diligently pursue the required Caltrans permitting process, even though it may cause some delays to their programs.

Local Government Action: Partial corrective action taken.

The four local governments for which this finding applied reported the following corrective actions:

Fremont: Fremont reports that it will diligently pursue the installation of red light cameras at state-owned intersections after completing its currently selected intersections.

Long Beach: In its response to the audit, Long Beach stated that state-owned intersections would be considered if the program is adopted permanently.

➡ **Los Angeles:** Los Angeles has not reported the action it plans to take on this recommendation.

➡ **San Diego:** Although San Diego indicates that the police and transportation departments will be working closely in a more clearly defined partnership to manage the program, San Diego has not reported how it will address this recommendation.

Finding #6: Not all local governments require vendors to follow municipal permit and engineering standards when installing red light cameras.

Local standards may include issuing the proper permits to perform the work, reviewing engineering drawings and plans for the suitability of the work proposed, and inspecting the finished work for accuracy and adherence to the plans and local construction requirements. Six of the seven local governments we visited required vendors to follow local permit and engineering standards to ensure proper construction and inspection of red light camera systems. However, San Diego chose not to apply its local permitting and engineering standards to red light camera intersections. Specifically, San Diego did not ensure that plans were prepared by a registered civil or electrical engineer, nor was the construction subject to the city's formal plan check, permitting, and inspection procedures.

We recommended that to ensure that intersections are constructed and cameras are installed as planned, local governments should follow their own permit processes by reviewing the as-built plans and inspecting the intersection after construction.

Local Government Action: None.

The one local government for which this finding applied reported the following corrective actions:

San Diego: Although San Diego indicates that the police and transportation departments will be working more closely in more clearly defined partnership to manage the program, San Diego has not reported how it will address this recommendation.

Finding #7: Caltrans guidance to local governments related to yellow light time intervals could be more specific.

With few exceptions, the local governments we visited complied with a new law requiring that the minimum yellow light time interval at intersections with red light cameras meet the standards established by Caltrans. The law became effective January 1, 2002, and was prompted by the Legislature's concern that yellow light time intervals at such intersections may be shorter than Caltrans' standards. Caltrans' standards use the speed of the approaching traffic to determine the appropriate time interval for a yellow light. However, the Caltrans traffic manual does not specify how traffic engineers are to determine the speed of the approaching traffic, which can be done in one of two ways: using the posted speed limit or surveying the traffic speed. Therefore, local governments that do not meet Caltrans' standards using both posted speeds and speed survey results run the risk that their yellow light time intervals may be legally challenged.

To avoid the risk of legal challenges, we recommended that local governments petition Caltrans to clarify its traffic manual to explain when local governments should use either posted speeds or the results from speed surveys to establish yellow light time intervals at intersections equipped with red light cameras.

Local Government Action: Partial corrective action taken.

The seven local governments for which this finding applied reported the following corrective actions:

Fremont: Fremont has not reported the action it plans to take on this recommendation.

Long Beach: In its response to the audit, Long Beach promised to request that Caltrans clarify the traffic manual and that it would ensure that its yellow light time intervals are set according to the traffic manual and based on speed surveys.

➔ **Los Angeles:** Los Angeles has not reported the action it plans to take on this recommendation.

Oxnard: Oxnard indicates that it will be changing vendors in early 2003 and that it intends to incorporate this recommendation into the program at that time.

➔ **Sacramento:** Sacramento has not reported how it will address this recommendation.

➔ **San Diego:** Although San Diego indicates that the police and transportation departments will be working closely in a more clearly defined partnership to manage the program, San Diego has not reported how it will address this recommendation.

San Francisco: San Francisco reports that it intends to seek confirmation from Caltrans regarding its current practices for yellow light time intervals.

Finding #8: Accounting for program revenues and expenditures is weak.

Although good internal control practices dictate that local governments properly account for the revenues and expenditures of their respective red light camera program, only Fremont did so. Because each local government pays their respective vendor based on the number of red light citations that motorists' pay, it would be prudent for them to properly account for program revenues. Additionally, we found that only Fremont and Long Beach conduct monthly reconciliations of their vendors' invoices with the courts' payment records to ensure that they are paying their vendors the appropriate amount. Also, San Diego, San Francisco, and Oxnard could only provide us with estimates for some of their program costs. Without a more precise method of accounting for program expenditures,

these local governments cannot accurately determine the cost-effectiveness of their programs and ensure that local resources are used appropriately.

To allow for better accountability over red light camera programs and to ensure that vendors are paid appropriately, we recommended that local governments improve their methods of tracking revenues and expenditures related to their programs.

Local Government Action: Partial corrective action taken.

The five local governments for which this finding applied reported the following corrective actions:

- ➔ **Los Angeles:** Los Angeles has not reported the action it plans to take on this recommendation.
- ➔ **Oxnard:** Oxnard indicates that it will be changing vendors in early 2003 and that it intends to incorporate our recommendations into the program at that time.
- ➔ **Sacramento:** Sacramento indicates that it hopes the partnership with the Sacramento County Sheriff's Department will improve accountability over the program, but it does not indicate specific actions that will occur to implement this recommendation.
- ➔ **San Diego:** San Diego has not reported the action it plans to take on this recommendation.
- ➔ **San Francisco:** To more accurately calculate expenditures, San Francisco reports that it is looking into setting up an accounting procedure to track police effort on the program.