

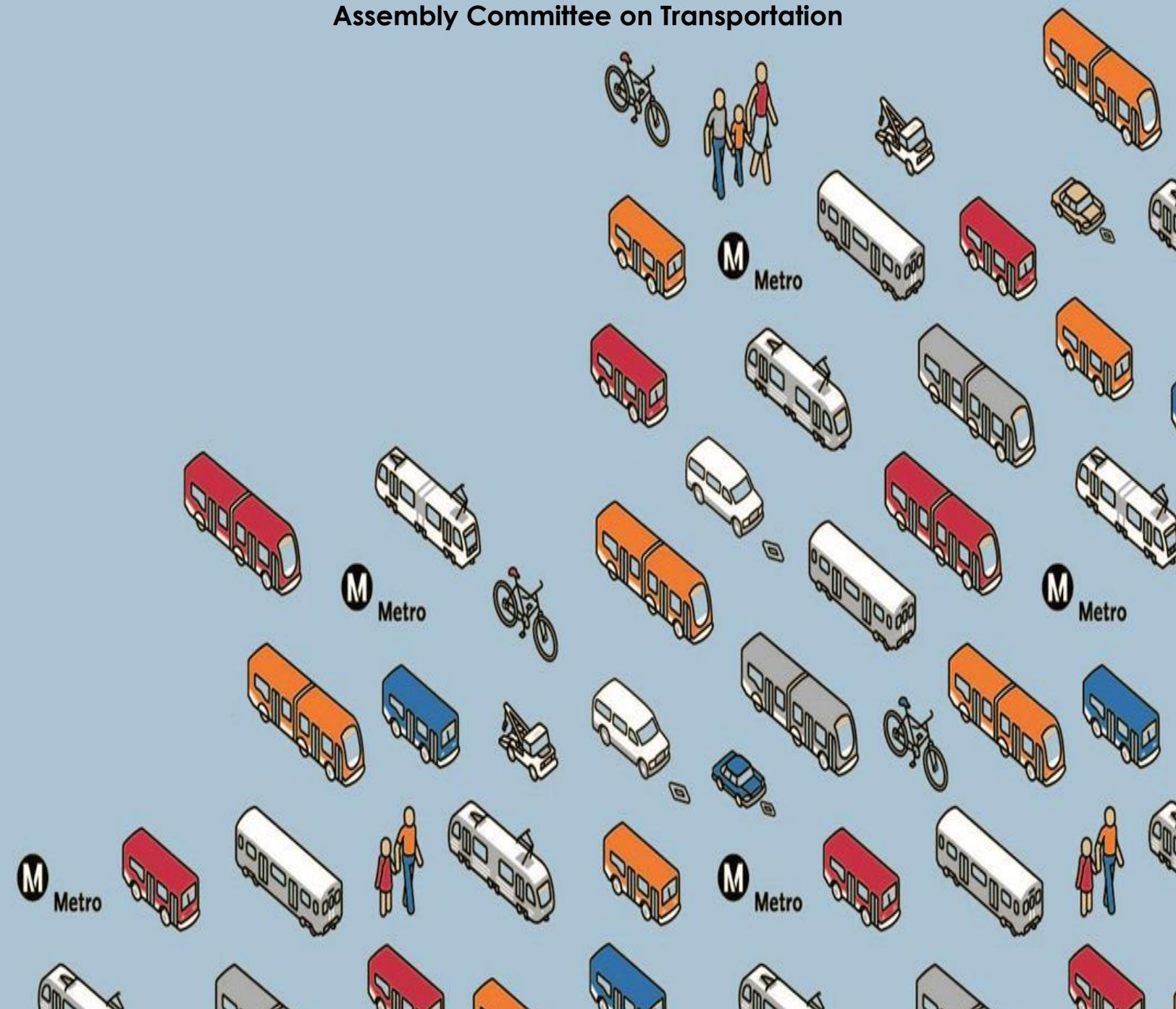
METRO TRANSIT COURT REPORT FOR 2012 AND 2013

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Submitted to:

**Senate Committee on Transportation and Housing and
Assembly Committee on Transportation**



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LEGISLATIVE REPORTING REQUIREMENTS

Pursuant to the provisions of California Penal Code section 640, certain entities, including the Los Angeles County Metropolitan Transportation Authority (“Metro”), may enact and enforce an ordinance providing that infractions listed in that code section concerning fare evasion and passenger misconduct shall be subject only to an administrative penalty imposed and enforced in a civil proceeding. Penal Code section 640 further provides that the ordinance shall be governed by Chapter 8 (commencing with Section 99580) of the Public Utilities Code and shall not apply to minors.

California Public Utilities Code section 99580(g), enacted in the 2011 legislative session and effective on January 1, 2012, provides that if an entity such as Metro enacts an ordinance to impose and enforce administrative penalties for infractions concerning fare evasion and passenger misconduct, the entity shall report, both two years and five years after enactment of the ordinance, all of the following information to the Senate Committee on Transportation and Housing and to the Assembly Committee on Transportation:

Reporting Requirement #1: A description of the ordinance, including the circumstances under which an alleged violator is afforded the opportunity to complete the administrative process.

Reporting Requirement #2: The amount of the administrative penalties.

Reporting Requirement #3: The number and types of citations administered pursuant to the ordinance.

Reporting Requirement #4: To the extent available, a comparison of the number and types of citations administered pursuant to the ordinance with the number and types of citations issued for similar offenses and administered through the courts both in the two years prior to the ordinance and, if any, since enactment of the ordinance.

Reporting Requirement #5: A discussion of the effect of the ordinance on passenger behavior.

Reporting Requirement #6: A discussion of the effect of the ordinance on revenues to the entity described in subdivision (a) and, in consultation with superior courts, the cost savings to the county courts. The superior courts are encouraged to collaborate on and provide data for this report.

Metro enacted a Customer Code of Conduct (“Customer Code”) on July 22, 2010 to be effective at a future date. The Customer Code was initially amended on June 23, 2011 and again on January 26, 2012, becoming effective at the same time full operation of Metro Transit Court began in March 2012. This first report therefore covers the years 2012 and 2013.¹

¹ The first full years after the effective date of the Public Utilities Code section 99580 and after commencement of operations by Metro Transit Court.

INTRODUCTION -- METRO TRANSIT COURT ACTIVITIES AND ACCOMPLISHMENTS DURING 2012 - 2013

In July 2010, Metro's Board authorized the staff to move forward with development of a plan for the creation of Metro Transit Court. The purpose of the new court is to better serve Metro customers by providing a system that permits those cited for transit violations an opportunity to resolve citations through a civil administrative process rather than as criminal infractions under the California Penal Code. The Transit Court began processing citations and conducting appeal hearings for fare evasion and other patron transit system misconduct citations in March 2012. Since that time a number of significant achievements have been reached, which include the following:

- Reduction of the burden on the Los Angeles County Superior Court ("LACSC") by decreasing their transit related case load volume by 70,862 citation cases in 2012 and by 100,554 citation cases in 2013;
- Savings of time and resources in 2012 of approximately \$1,297,956 and in 2013 of approximately \$2,003,436 by the Los Angeles County Sheriff's Department ("LACSD") through reduction of hours officers spent testifying in transit violation cases. Less time spent in court allowed officers to be redeployed to other transit related duties;²
- Improved quality of citation writing through feedback from Transit Court to County Sheriff's Deputies, thereby decreasing the number of invalid tickets by 12% in 2012;
- More affordable \$75 fines (in place of LACSC fines and fees of over \$220), which benefit all patrons, but particularly low income members of the community;
- Improved service and safety through the use of feedback from customers in Transit Court hearings; and
- Creation of Metro Transit School, a free diversion program that educates the public on passenger safety issues, other passenger conduct, and on how to use the transit electronic fare media payment system ("TAP").

² Calculated by multiplying number of court hours saved per citation (3) times the average hourly pay of a Sheriff's Deputy (\$114) times the number of citations processed in 2012 (3,794) and 2013 (5,858).

REPORTING REQUIREMENT #1 – DESCRIPTION OF METRO CUSTOMER CODE OF CONDUCT

Metro’s ordinance implementing California Public Utilities Code section 99580, *et seq.*, was enacted July 22, 2010 and amended June 23, 2011, January 26, 2012, and February 28, 2013. The ordinance is contained in Chapter 6-05 of the Metro Administrative Code, Metro’s Customer Code. The Customer Code may be found at: http://media.metro.net/about_us/ethics/images/codeofconduct_customer.pdf

The purpose of the Customer Code is to provide the public with the relevant transit rules and information in one place³ and to promote public safety and enjoyment of the Metro system. The ordinance sets forth the rules for use of Metro facilities and riding Metro vehicles. It explains the enforcement of the rules occurs through a fair, impartial administrative procedure with due process in Metro Transit Court, affording resolution of transit violation citations through appeals, payment of fines, and diversion programs such as Transit School or community service. It provides notice that repeated violations resulting in multiple citations that the patron continually fails to resolve may result in suspension from use of the system for a short period.

The Customer Code is comprised primarily of Penal Code section 640 transit offenses that have been decriminalized such as fare evasion, smoking, eating, and drinking in Metro vehicles and facilities. The Customer Code also includes regulations such as those concerning proper safe use of escalators on Metro property, lost and found procedures, and littering.

Metro believes that Transit Court is fulfilling its purpose in providing customers with a forum where they can be heard and receive fair and unbiased treatment. Metro’s administrative adjudication procedures consist of an initial review of the citation (Level 1 review) by transit security staff. If the customer disputes the results of the initial review, the customer may, within 21 days, request an administrative hearing by declaration or in-person with a hearing officer (Level 2 review). The fine must be paid before the hearing unless the customer demonstrates they are unable to do so. If a citation is upheld at the Level 2 hearing, the customer may, within 30 days, appeal the Transit Court hearing decision to the LACSC (Level 3 review).

Citations will be dismissed if customers present valid defenses with credible evidence. Hearing Officers are independent attorneys, working for Metro mostly on a part time on and as-needed basis. They are paid for the hours they work and not based on the outcome of hearings. Metro employs a Quality Assurance Hearing Officer who periodically reviews a sampling of hearings. Metro’s Quality Assurance Hearing Officer has found the hearings and Hearing Officers to be effective regarding courtesy, timeliness, information provided, fairness, and competency.

³ Metro publishes the Customer Code both online and in a convenient booklet available to the public.

REPORTING REQUIREMENT #2 -- PENALTY SCHEDULE

Public Utilities Code section 99580(e) provides that transit agencies shall establish penalties that do not exceed the maximum amount set forth in Penal Code section 640, which is \$250 for a first offense and \$400 for a third or subsequent offense.

Under Metro's Customer Code, the current maximum fine is \$75 per violation. Violations subject to a fine include fare evasion, playing loud sound equipment, smoking, eating or drinking, expectorating, willfully disturbing others by engaging in boisterous or unruly behavior, carrying a hazardous material, urinating or defecating, and willfully blocking the free movement of another person. Violations that generally have no monetary penalties, but are subject to a warning and/or ejection, include riding a bike on a rail platform, obstruction of seats and doors, and improper use of carts and strollers.

The \$75 penalty is modest and consistent with penalties assessed by other large transit agencies such as New York (\$100 fine for fare evasion) and Chicago (\$100). It is substantially lower than the total amount of bail and fees assessed by the LACSC.⁴

Violators may also be subject to short periods of exclusion from the system for unresolved, numerous offenses. Notice and due process is provided prior to imposing these last resort consequences. As of this time, exclusion orders have only been imposed in three cases, such as where a violator had accumulated over fifty unpaid, unresolved citations with no attempt to pay a fine or request an appeal.

Transit citations are issued by Sheriff's Deputies and unsworn Security Assistants employed by the LACSD⁵, as well as the officers in the Los Angeles and Long Beach Police Departments. Although LACSD is under contract to Metro to provide transit security and enforcement, officers use their own judgment in deciding whether to cite violators, are supervised day-to-day by their non-Metro management, and are not compensated based upon how many tickets they write.

Metro has a free diversion program called Metro Transit School, a twenty-minute, online interactive program designed to help educate the public and raise awareness of safety issues on Metro buses and rail. A \$75 fine may be reduced by \$15 by completing Metro Transit School. The program may be completed on any personal computer, and a computer is made available to patrons in the Transit Court lobby. In addition, an installment payment plan may be arranged to pay fines where a customer meets financial eligibility criteria. Metro currently imposes no late penalties. Metro also recently started a community service diversion program whereby the \$75 transit violation penalty may be satisfied if the violator is eligible and completes community service.

⁴ Although the LACSC sets bail for transit violations at \$25, additional fees typically bring the total to an amount over \$220.

⁵ Transit Security personnel employed by Metro have authority to write citations, but rarely do so.

**REPORTING REQUIREMENT #3 -- NUMBER AND TYPES OF CITATIONS
ADMINISTERED PURSUANT TO THE ORDINANCE**

Types

Metro Transit Court processed citations for both fare evasion and fare media misuse violations, as well as other transit violations, sometimes referred to as “quality of life” violations. Examples of quality of life violations include smoking, eating, or drinking where prohibited, playing loud sound equipment and willfully disturbing others by engaging in boisterous or unruly behavior.

2012

For nine months from March through December 2012, Metro Transit Court processed 70,862 citations.

In 2012, there were 3,794 Level 1 reviews and 625 Level 2 appeal hearings conducted in Transit Court. Metro customers who asked for Level 1 review of their citations were successful in having their citations dismissed 8% of the time. Customers were successful at the Level 2 in-person hearings 26% of the time. Five cases proceeded to Level 3 review at LACSC, and the decisions of Metro’s hearing officers were affirmed in all five cases.

2013

In 2013, Metro Transit Court was fully operational and processed citations during the entire twelve months of the year. Metro continued to expand its bus and rail service (including construction of the Expo Line from 7th Street in Los Angeles to Culver City and extension of the Gold Line to the Eastside), so ridership increased. Metro Transit Court processed 100,554 citations. Of the total, 89,511 of citations were for fare evasion (which includes misuse of fare media)⁶ and 11,043 were for quality of life violations.

In 2013, there were 5,858 Level 1 reviews and 1,247 Level 2 appeal hearings conducted in Transit Court. Metro customers who disputed citations were successful in having their citations dismissed at the initial Level 1 reviews 19% of the time and were successful at the Level 2 review 26% of the time. 13 cases proceeded to Level 3 review in 2013, and in the majority of cases (8 out of 13), Metro’s findings at the hearing level were affirmed.

These figures strongly indicate that cited persons are treated fairly and their cases are seriously considered by the Hearing Officers in Transit Court.

⁶ See Metro’s Customer Code, section 6-15-230 at:
http://media.metro.net/about_us/ethics/images/codeofconduct_customer.pdf

**REPORTING REQUIREMENT #4 -- COMPARISON WITH SUPERIOR COURT
STATISTICS FOR 2012 AND 2013**

The LACSC has not provided Metro with statistics or other information which would serve as a basis to compare the numbers for Penal Code section 640 citations heard in LACSC in 2010 and 2011 and the numbers of citations administered by Metro Transit Court for the same offenses since operations in Metro Transit Court began in 2012.⁷

2010 – 2011 LACSC Numbers

Metro obtained information from LACSD regarding citations issued by Sheriff's Deputies during 2010 and 2011. In 2010 and 2011, LACSD issued 106,470 and 117,394 citations, respectively, for fare evasion and other transit violations under Penal Code section 640.⁸ All of those citations, which include citations issued to both adults and minors, were referred to the LACSC for processing.

2012 – 2013 Metro Transit Court Numbers

In comparison, 70,862 adult citations were processed by Metro Transit Court for nine months in 2012 and 100,552 adult citations in 2013⁹ (minors' citations continue to be sent to LACSC).

YEAR	Superior Court	Metro Transit Court	Total Citations
2010	106,470	0	106,470
2011	117,394	0	117,394
2012	27,911	70,862	98,773
2013	9,546	100,552	110,098

⁷ In response to Metro's initial request for information for this report, LACSC advised on December 31, 2012 that if the Court was able to identify statistics which it believed would be helpful, the Court would provide them to Metro. However, Metro has received no information from the Court. No response has yet been received from the Court to Metro's most recent request for information dated May 13, 2014.

⁸ The numbers provided by LACSD include citations issued to minors in 2010 and 2011; however, the actual number of citations issued to minors during those years is unknown. Pursuant to Public Utilities Code section 99580, Metro Transit Court does not administer citations issued to minors.

⁹ The Los Angeles County Probation Department has advised Metro that citations issued to minors in 2012 and 2013 continued to be referred to LACSC.

REPORTING REQUIREMENT #5 -- THE EFFECT OF ESTABLISHMENT OF METRO TRANSIT COURT ON PASSENGER BEHAVIOR

Metro believes that behavior of bus and rail passengers, and Metro itself, has been positively affected by the new Transit Court.

First, both violators and the public at large now have the opportunity to become educated and informed about public safety and other issues through Metro Transit School. Metro Transit School is a free, online interactive program designed to instruct the public on how to use the TAP system and to increase awareness of passenger safety issues. A recent sampling of Metro Transit School attendees shows that violators who attended Transit School were less likely to become repeat offenders than those not attending. Transit School was completed by 625 persons in 2012 and by 1220 in 2013. Only 21 persons who took Transit School were noted to be repeat offenders; that equals only a 2% recidivism rate at this time for persons taking the course.

Secondly, Metro receives valuable feedback from persons who appear in Metro Transit Court about inadequate or missing signage and about malfunctioning or difficult to navigate ticket vending machines. We would not have received that information if the patron had proceeded directly to LACSC. As a result, Metro has taken action to improve customer satisfaction by correcting deficiencies which might otherwise have continued. Therefore, Metro behavior has also been positively improved.

Thirdly, Metro performs immediate reviews of citations and accommodates walk-in requests for same day appeal hearings. The in-person hearings are held in an intimate and less intimidating setting than cases heard in LACSC, where a 90 day or longer wait time is not unusual.

The creation of Metro Transit Court is also part of a larger strategy by Metro to take greater responsibility for the safety and public protection enforcement issues inherent in a large metropolitan transportation system. Instead of imposing on the overburdened courts and law enforcement to carry the burden, Metro has taken steps to make the system more fair and open, mitigating legal action to accomplish compliance by:

- Assisting passengers by publishing all the relevant rules and information in one convenient Customer Code booklet;
- Reducing the \$75 fine for economically fragile violators by giving credit for completion of Metro Transit School, and by allowing violators to pay fines through a payment plan;
- Simplifying the system and making less confusion for riders uncertain as to when and where to pay for tickets and tap their cards by latching gates in nearly 50 stations;
- Relieving the LACSC of the burden of handling a significant number of low level transit violations; and
- Increasing safety in the Metro system through more effective use of law enforcement resources; Sheriff's Deputies no longer spend three hours per citation appearing in court.

REPORTING REQUIREMENT #6 -- REVENUES AND COST SAVINGS

Although Metro’s adoption of the Customer Code and creation of Transit Court has not resulted in a significant gain in revenues, Metro believes that the creation of Transit Court has been worth the time, effort, and resources invested.

Metro Expenses and Revenues

Metro Transit Court posted a modest loss in 2012 and a small net gain of \$275,217 in 2013.¹⁰ The fines collected from patrons, paid to Los Angeles County, are remitted back to Metro to offset the LACSD expense Metro pays the County. The collection rate, approximately fourteen percent (14%), is very low, but in line with collection rates of LACSC and other transit agencies. The primary expenses for Transit Court are wages and benefits to staff, overhead, and the citation processing vendor for Metro.

TRANSIT COURT NET REVENUES – 2012/2013			
Year	Revenues	Expenses	Gain (or Loss)
2012	\$553,050	\$747,401	(\$194,351)
2013	\$1,348,648	\$1,073,431	\$275,217

Superior Court Processing Estimated Savings

Although Metro received no statistics from LACSC, Metro believes that the creation of Metro Transit Court has resulted in a substantial savings to LACSC. If Metro estimates that LACSC might spend 45 minutes of administrative staff time in the life of a ticket to process (data entry, answer questions, supervision, and collection). We further estimate 45 minutes of staff time to be an expense of \$15 (estimated salary at \$20 per hour not including benefits and overhead). Thus, LACSC avoided the cost to process 171,418 citations processed by Metro Transit Court in 2012 and 2013 of approximately \$2,571,270.

LACSC has also saved the expense of performing hearings. The number of hearings that Metro Transit Court unburdened the LACSC in that period is the number of Level 1 reviews, 9,652. This number of hearings times the cost of the court clerk, bailiff, and judge, estimated conservatively at \$120 per hour, processing an average of four hearings per hour, results in a saved expense of \$289,560. Assuming these costs and number of hearings, the total saved expenses for LACSC is \$2,860,830 (\$289,560 + \$2,571,270).

Thus, although the creation of Metro Transit Court has not resulted in significant revenues for Metro, it has resulted in many other benefits, including a substantial savings of resources by LACSC.

¹⁰ Prior to the creation of Transit Court, Metro received a portion of the bail amount collected by LACSC for all transit citations issued to both adults and minors and for citations issued for criminal violations under Penal Code section 640. Since the creation of Transit Court in 2012, Metro no longer receives remittances from LACSC for transit citations issued to adults. Thus, the remittances which Metro continues to receive from LACSC for citations issued to minors and for criminal violations are not included in Transit Court revenues.

WHAT'S NEXT: PRIORITIES FOR METRO TRANSIT COURT IN THE COMING YEAR(S)

Metro intends to build on the success of Transit Court and will continue to analyze, evaluate and improve its performance. Metro's Transit Court priorities include the following:

- Promote awareness of Transit School so that more customers take advantage of this educational program.
- Continue to offer community service as a diversion program; the \$75 transit violation penalty is waived for those who are eligible and choose to perform community service.
- Plan for an anticipated increase in the number of hearings as public awareness of the advantages of Transit Court services and ridership increases.
- Add enhancements to the fare checking device that Sheriff's Deputies now use in order to provide better information to the Deputies.
- Continue to benchmark with San Francisco Muni and other agencies for the best ways to improve Transit Court services and performance.
- Organize a Transit Court symposium for later in 2014 to discuss and establish "best practices" for Transit Courts.
- Find more ways to control costs associated with Transit Court including:
 - Reduce cost of cash payment kiosk (\$1400/month); and
 - Encourage customers to utilize online resources.
- Explore opportunities to collaborate with other governmental entities to consider best methods to handling citations and violations by minors in the transit system.

CONCLUSION

This report was prepared in accordance with Public Utilities Code section 99580(g) and provides a summary of the Metro Transit Court activities and accomplishments from its inception in 2012 through 2013. Metro believes that the Transit Court is fulfilling its purpose to promote a more fair and open system and to increase the safety and enjoyment of Metro customers.

Customers may now resolve transit citations through a civil administrative process rather than as criminal infractions through LACSC. Fines are more affordable and customers may take advantage of a payment plan. Metro also offers a diversion program, Transit School, which is a free online, interactive computer program which promotes passenger safety and helps educate the public on transit issues, such as the use of the transit electronic payment system known as "TAP." Successful completion of Transit School results in a \$15 reduction of the \$75 fine. This year, Metro began offering alleged transit violators the option of community service. The entire fine is waived for those who successfully complete community service.

Other important benefits of the creation of Metro Transit Court include reduction of LACSC's transit related caseload with a corresponding cost savings estimated to be over \$1 million per year. The LACSD has also enjoyed a savings of time and resources, allowing officers to be redeployed to other transit related duties such as security instead of appearing in LACSC appeals.

Metro's goals for the future include improving Transit Court services and performance while continuing to control costs. Metro does not anticipate that Transit Court will ever produce significant revenues, but nevertheless views Transit Court as a worthwhile endeavor and a means for Metro to better serve the public and enhance customer enjoyment of the Metro system.

Legislation to assist Transit Court enforcement might include requirements to show some form of identification and an address, such as a utility bill, for persons who receive citations, and other collection methods that would enable better enforcement through collection of fines and improve overall system security.

Questions or comments concerning this report may be directed to Karen Gorman, Chief Hearing Officer, One Gateway Plaza, MS 99-4-5, Los Angeles, California 90012, gormank@metro.net or (213) 922-2975.