

Tickets and Warrants

Self-Help Clinic

Advocate Manual



**LACBA Counsel for Justice
Veterans
Legal Services
Project**

Tickets & Warrants Consultation Guidelines

I. Organize veterans' tickets and warrants

- a. If the Veteran brings the original ticket, court case summary or DMV report, make copies or take pictures and submit to Project Director.
- b. Otherwise, fill out an Individual Citation Information Worksheet for **each ticket**. Put the citation number at the top of the worksheet.
 - i. If Veteran has more than 3 tickets, please use a Multiple Ticket Organization Table. [Instead of Individual Citation Worksheet]
- c. Fill out the worksheet(s) as best you can using the information available.
- d. Help veteran organize various documents to match up with the respective ticket and worksheet. [Especially if veteran has multiple tickets]
- e. Organize multiple tickets chronologically, noting any upcoming hearing dates.
- f. Refer to DMV printout and Superior Court printout (if available) for any updates to hearing dates or other charges not mentioned by the client.

II. Develop Next Steps

- a. Prioritize tickets with upcoming hearing dates
- b. Often a veteran's next step is simply gathering more information so the Project can be more helpful.
 - i. If you run into a roadblock due to lack of information, use the Clinic Summary form to note what information the vet needs to obtain and where this can be done.
- c. Some vets need to go to court and ask for a hearing date. Again, use the Clinic Summary form to indicate which court she should visit and how to accomplish this task.
- d. Occasionally, a veteran will have a strong defense. If so, write the logic of the defense on the Clinic Summary form and instruct the veteran to follow up with the clinic at least 2 weeks before their next hearing date.
- e. Frequently our clients best bet is not a defense, but rather a motion for dismissal/leniency, or to modify/vacate a previous judgement. We've provided a questionnaire to guide the process. In depth answers will help inform a veteran's argument for leniency.
 - i. These motions are based in part on PC 1385. This statute allows for dismissal "in the furtherance of justice."

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Some Background

About LACBA Veterans Project at Patriotic Hall

The LACBA Veteran's Project is part of a collaborative of veterans and service organizations working at Patriotic Hall. One of the major service organizations involved is U.S. Vets whose program at this location will include early intervention services, jobs programs, supportive services, housing referrals, and financial stipends for veterans to help stabilize their lives and prevent the slide into homelessness.¹

The LACBA Veteran's Project will augment these services by providing assistance to address specific legal obstacles to full employment and self-sufficiency. Our initial areas of focus are resolving tickets and warrants, DMV license reinstatement, and criminal record expungement. These are currently unaddressed or under-addressed areas of legal need among veterans that can have a significant impact on a vet's ability to obtain or maintain employment.

Why Tickets and Warrants are a Big Deal for Veterans

If you have lived in California for very long, you know tickets are expensive. Every pedestrian in the vicinity of downtown L.A. fears (or should fear!) the possibility that they will thoughtlessly step off the curb and into a \$197 jaywalking ticket. For most, dealing with a ticket is a costly hassle but it is not likely to have a very dramatic or lasting impact.

For a veteran who is on a fixed income, a simple ticket can quickly snowball into a disaster. If the charges are not resolved in a timely manner the veteran may be looking at license suspension, rapid escalation in the amount of money owed, and damaged credit. License suspension can lead to loss of a job and greater difficulty accessing services and educational opportunities. A warrant can result in denial of government benefits, eviction from subsidized housing, even a humiliating arrest at a traffic stop. If the ticket is sent to collections, the veteran's damaged credit will affect their ability to do basic things like rent an apartment or obtain a car loan.

Fortunately, a few hours of your time can help to turn this situation around or prevent it altogether! As a pro bono attorney or advocate at LACBA's Ticket and Warrants Clinic, you will have the chance to empower a veteran to take control of the situation by teaching them to proceed pro se. Many people are quick to say they support our troops and our veterans. Fewer take action to actually do so. Thank you for taking action!

¹ For more information on U.S. Vets role, please visit their website:
www.usvetsinc.org

About this manual

Before we delve into this exciting area of law, I want to take a minute to tell you a little bit about the scope and intent of this manual. It is designed to enable our pro bono advocates to effectively counsel veterans participating in our Tickets and Warrants self-help clinic and empower them to proceed pro se.

The information contained herein and the approach we are taking to help vets in this area is based on research of the law and supplemented by valuable experience from attorneys who represent veterans and/or practice in this area. The law continues to evolve, and each courtroom may function a little differently. We think the best way to serve vets effectively is to evolve with the law and procedures by continuously learning and adding to our body of knowledge and experience. So, if you have any insights or experience-based suggestions into parts of the manual that could be updated, expanded, or improved, please contact us!

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Tickets: The Where and When

Finding the Assigned Date and Place of Arraignment

In order to find out what arraignment date has been assigned and to which court, the veteran may look at the ticket, look at any courtesy notice mailed by the court, check online, by phone, or in person at the courthouse.²

Requesting an Extension Before the Scheduled Date

In Los Angeles, it is fairly simple to get a 60-day continuance for the arraignment in traffic court.³ Before the scheduled date, the veteran can request a new date online, by phone, or in person. Typically, the online scheduling system only gives the option of one date 60 days out from the original hearing. If the veteran wants a different date, he should try calling the courthouse or appearing in person.

If the veteran needs to reschedule because he missed his first court date, see “Failure to Appear” below.

Failure to Appear (“FTA”)

The Basics

Very often by the time a veteran reaches out to get help with a ticket, they have already missed their hearing. There are many reasons for this. A vet may think because she doesn’t have the money to pay a ticket, she might as well just ignore it. She may have had a bad experience with the court before, or just feel so intimidated by the court process they just hope it will go away. She might have been ill, incarcerated, or deployed.

Whatever the reason for missing the hearing, the consequences are not good and will include some or all of the following:

- A separate *misdemeanor* Failure to Appear charge in addition to the underlying charge.
- A bench warrant for their arrest
- Driver’s license hold and eventually suspension
- Additional late charges and civil assessments that can at least double the total amount owed.
- Conviction of the underlying offense “in absentia”

² For more information: <http://www.lacourt.org/division/traffic/TR0009.aspx>

³ <http://www.courts.ca.gov/1056.htm>

Defenses for Failure to Appear

There are 3 recognized legal excuses for failing to appear at a scheduled hearing. If *at the time of the missed hearing*, the veteran was (a) hospitalized, (b) incarcerated, or (c) deployed out of state, she is legally excused and may ask for the FTA charges and related fines and assessments to be dismissed. Make sure the veteran is ready to bring copies of documentation to back up their story.

If the veteran has a compelling reason for missing the hearing other than one of the 3 recognized excuses above, she might still have some options. For example, a misdemeanor FTA charge under 40508(a) of the Vehicle Code applies only to someone “*willfully* violating his written promise to appear...” (Veh. Code, § 40508, subd. (a), emphasis added.) So, for example, if the veteran didn’t go because due to an emergency, she might be able to argue that she did not willfully miss the hearing.

However, simply forgetting or losing the ticket will probably not fly. If someone loses the ticket, they are responsible for following up with the court to get the info. While forgetting technically would mean the act was not willful, the judge has heard it all and is not likely to find it their story credible absent some major event that would explain why they were too preoccupied to remember to come to court (e.g., death in the family). It’s also important to consider how long the vet waited to address the Failure to Appear. If she missed the hearing because of an auto accident on the way in and went that day or within a few days to the court to try to correct the matter, her claim that missing the hearing was not willful might be more credible than if she waited a year to correct the situation.

Disability might be another compelling reason for missing the hearing particularly if it is service related. For example, if the vet suffered a traumatic brain injury and as a result has difficulty with memory or executive function, she might present that as evidence that she did not act willfully in missing the hearing or that it would be in the interest of justice to dismiss. However, it is *extremely* important to address these issues sensitively (please see *Interviewing Veterans about Service-Related Disabilities, below*).

Alternatively, the veteran could frame their compelling reason for not attending as part of her request for a Dismissal in the Interest of Justice at arraignment (see below).

Warrant or DMV Hold

For Vehicle Code offenses, you can search the Los Angeles Superior Court’s website to view any outstanding traffic tickets.⁴ If the ticket’s disposition is listed as 40508(a), this means that the veteran failed to appear for her arraignment and a warrant may have been issued. If the disposition is listed as a 40509.5 hold, the court notified the DMV of the veteran’s FTA, issued a hold, and the license is likely

⁴ <http://www.lacourt.org/online/traffic>

“suspended”. Whether to issue warrant under Vehicle Code 40508(a) or a hold under Vehicle Code 40509.5 is up to the discretion of the court. For infraction offenses, the court cannot issue both a warrant *and* place a DMV hold for an FTA if the underlying offense is an infraction unless she has a previous FTA charge or one of the other exceptions applies under Vehicle Code 40509.5(e).

Setting a New Arraignment Date

The first thing that the veteran will need to do to resolve an FTA is set a new arraignment date at which she can address the original underlying offense and the new FTA charge.

Our Veteran clients in LA County have experienced difficulty in arranging new hearing dates without help. While the veteran may be able to call the clerk directly to request a new arraignment date, it is more likely that she will have to go to the courthouse listed on the ticket. She will go to the clerk’s window or if she has a warrant per Vehicle Code 40508(a), she may be required to go to the GC services window.

Due to congested court calendars as well as budget cuts and inadequate staffing, the veteran may get a court date that is several months out. If she has a warrant, she has a right to be heard and may be able to get a hearing that day. Most courts have cut-off times to appear (“walk-in”) on a warrant, so you should inform the veteran to appear at the Court at 8:30 a.m.

Because our clients have occasionally reported difficulty in convincing clerks to calendar a hearing, our current procedure is to first provide the Veteran with a “Judge’s Consideration Letter.” This is a letter that is addressed to the judge to request that the charges be dismissed “in the interest of justice” (based on PC 1385). A successful response to this letter can result in a dismissal of the underlying charges and failure to appear without the need for the veteran to make a physical appearance at the arraignment date.⁵

If the letter does not result in a dismissal, the most common response is for the judge to require the veteran to schedule a hearing, thus overcoming the obstacle that the clerks may present to scheduling a hearing date. In preparation of the veteran’s appearance at the hearing, either a written motion is prepared to dismiss the charge(s) “in the interest of justice” (based on PC 1385) or a written motion to modify/vacate a judgement (based on VC 42003(e)).

⁵ Because it can take some LA County courts between 4 and 6 weeks to review a letter, if a veteran has an upcoming hearing date (within 4 weeks), the best practice is to prepare a motion for the veteran instead of the letter.

Clearing the DMV Hold Pending the Hearing

Waiting several months for a court date is a significant problem if the veteran has a DMV hold. In this case, the veteran should ask the clerk for an abstract at the time they submit their motion. The abstract will clear the DMV hold stemming from that ticket. It will cost \$10 and may take 24-48 hours for the DMV to process.

*Unfortunately, in the spring of 2015 LA County Superior Court updated its rules, and its clerks no longer grant abstracts. Until further notice, abstracts will only be granted by a judicial officer. The practical implication is that a client may have to wait several weeks or months for a hearing, during which time the court-ordered hold on their license will remain in effect.

If there are holds related to other tickets or charges or for other reasons (e.g., child support arrears), the veteran will need to resolve those issues separately. If the DMV hold has already resulted in a license suspension, then releasing the hold may not automatically make the license valid. The veteran should always call the DMV mandatory actions unit after clearing an FTA hold, to be sure that the DMV does not require anything additional to reinstate the license, such as paying a reissuance fee. The DMV mandatory actions unit number is (916) 657-6525.

* Rescheduling online is probably not an option at this point as it would require a plea of guilty and payment of the full bail amount. Most of our clinic participants will not be able to afford to do that.

At the Arraignment

Overview (See also: Appendix A: Overview of Possible Strategies at Arraignment)

Usually, arraignments are scheduled for 8:30am and 1:30pm. Although the exact process varies by courthouse, and even by courtroom, these hearings are typically very crowded. It is worth emphasizing to the veteran to get there at least 30 minutes early to make sure they make it through security. Once in the courtroom, someone - usually the bailiff, will go over the rights of the defendants as a group. Each court has a different way of bringing each individual before the judge. One way that is typical is call smaller groups of defendants in alphabetical order to stand in line behind the podium or table from which they will speak to the judge. The judge will then ask each defendant how he wishes to plead or if he has any documents for a correctable offense.

Because of the large number of people present, and the short window of time to speak, it is easy to “blank out” in front of the judge and forget what you intended to say. That is why it is very important to make sure the veteran understands what to expect and confirm he understands the written motion he has (or will be) submitting.

Most people have very little experience going to court and find the whole process intimidating. Part of empowering the veterans to proceed pro se is making them feel comfortable with the process. Our best practice is to send a client to any hearing with a written motion, rather than rely on the client to verbally make their request.

Requesting a Dismissal in the Interest of Justice.

California Penal Code section 1385, subdivision (a) allows a judge to dismiss a criminal action “in furtherance of justice.” The statute only allows dismissal on the motion of the judge or prosecutor. However, case law clarifies a defendant may request the dismissal and the court has the discretion to do so on its own motion. (*People v. Ritchie* (1971) 17 Cal.App.3d 1098, 1104.)

While requests under section 1385(a) are technically informal suggestions, in practice they are generally treated as motions. Judges expect reasoned arguments and evidence in support of the request. This is not an argument on the merits about whether the veteran committed the offense or whether the officer acted fairly. The place for those arguments is at trial. Instead, this is a chance to present other considerations that may warrant leniency. The arguments are stronger if they include any actions taken to mitigate the circumstances that led to the offense (for example, the veteran is now in rehab or counseling to address an underlying mental health issue or substance abuse that arguably led to the offenses and/or FTAs or FTPs).

As a matter of strategy, it is preferable to have the section 1385 “motion” written for several reasons. First, as a practical matter the defendant will not have much time to speak as the judges try to get through the line of defendants in a timely manner. Also, a written motion is ideal because the judge may be more reluctant to grant the request if it alerts an entire courtroom of pro se defendants to the possibility of asking for the same thing. At our clinics we will have computers and printers available as well as sample and template motions so the advocate can help the veteran draft a short motion that explains the particulars of their circumstances.

If it is not possible to draft and print a written motion, the veteran can make the request verbally, but should ask the bailiff at the beginning of the proceedings if he can go at the end. Again, it is very important to work with the veteran on exactly what he will say. He may even choose to write the information down in a letter (if that is the case, help him prepare what to say when asking the judge to consider the letter).

Some examples:

“Your Honor, I respectfully request that all charges be dismissed in the interest of justice. As a veteran of the US Army, I have the highest regard for the law and for the authority of this court. At the time I received this citation for open container and missed the hearing, I was struggling with addiction. I am now taking responsibility for my behavior and my addiction by participating in an outpatient rehab program at the VA and I have a letter from my substance abuse counselor detailing my progress. At this time, my only income is from a part-time job and paying these fines

and fees would prevent me from being able to cover basic expenses like rent and food. I have my most recent pay stubs available for review.”

“Your Honor, as a veteran, I have respect for the court and the law. Since I was honorably discharged from the Navy last year, I have not been able to find employment. I can’t afford to pay the fines and assessments and fear that the charges on my record will further prevent me from getting a job. Additionally, the ticket was for fare evasion on the metro, and I have since applied for and received a discounted Rider Relief Pass, so I always have fares on my TAP card. I respectfully request that all charges and fines be dismissed in the interest of justice.”

Make sure that the veteran is prepared to bring documentation in support of their request. For example, proof of military service, a letter from the VA or SSI documenting their disability and income, letters of support from therapists, substance abuse counselors, case managers, etc.

Whether the judge is willing to consider such a request for dismissal in the interest of justice varies from court to court. So, make sure the veteran has a plan to proceed if the judge declines to grant a dismissal. At arraignment, frequently the fallback plan is to plead not guilty and obtain a trial date (not guilty plea and next steps described below).

Alternatively, the judge may decline to dismiss all charges, but offer a plea bargain instead. It is important to make sure the veteran understands the consequences of pleading guilty or no contest to each charge. For example, if the veteran already has a significant number of points on his license, it might be a bad idea to plead guilty to a moving violation in exchange for dismissal of the Failure to Appear charge. Alternatively, if the veteran is concerned about a misdemeanor showing up on his record, he might not want to accept an offer to drop the underlying charge if he pleads guilty to the FTA – but he might want to accept if the judge is willing to reduce the FTA charge to an infraction.

See below for more detailed discussion of options and considerations during plea bargain negotiations.

Pleading Guilty or No Contest

Pleas of Guilty or No Contest have virtually the same effect in that both will show up as a conviction on the defendant’s record. The most significant difference is that by entering a No Contest plea, the defendant is not admitting to civil liability. This situation arises when the defendant was involved in a traffic accident and received a citation putting them at fault for the accident. If the client pleads Guilty to the citation, his admission of guilt can be used against him if the other driver later sues the veteran in civil court. If he pleads No Contest, his plea cannot be used against him in a future

lawsuit. For this reason, it is always good practice to advise veterans to plead No Contest instead of Guilty if they wish to resolve their ticket.

If the veteran cannot afford to pay but is otherwise willing to plead guilty or no contest, he has several options. He can ask that if he pleads guilty or no contest (a) the judge suspend or reduce the fines and fees (b) he be allowed to do community service in lieu of the fines or (c) he be allowed to pay in installments.

Additionally, if applicable, he can ask that a misdemeanor Failure to Appear Charge be reduced to an infraction. In addition to carrying higher fines and possible jail time (although it would be extremely unusual for a judge to order any actual jail time for an FTA stemming from an underlying infraction charge), misdemeanor charges are more likely to show up on various background checks run by employers and others.

Per Vehicle Code section 42003, subdivision (d), the court must consider ability to pay upon request of the defendant. The defendant bears the burden of demonstrating inability to pay – so make sure the veteran is prepared to bring documentation of income and expenses. Inability to pay doesn't mean the defendant needs to be absolutely destitute but that he or his family would have to do without the basic necessities of life if forced to pay the fine (food, clothing, shelter). Some factors the court can consider: present financial position, reasonably discernable future financial position (not more than 6 months from the date of the hearing), likelihood of obtaining employment within the next 6 months, any other factors that may bear on financial capability.

If the veteran is worried about points on his license and can afford the extra cost, he may request traffic school (see discussion of the DMV point system, below).

Pleading Not Guilty

If a defendant pleads not guilty at arraignment, the court will set a separate trial date. As a practical matter this may not be the best option for some Veteran clients for several reasons. Considerations such as transportation, childcare, and taking time off work often make a second court appearance inconvenient or impossible. If a trial is scheduled, these same considerations make it more likely the veteran will miss the trial date and then be dealing with a new Failure to Appear charge. Furthermore, it is often judicial economy that motivates a judge to grant dismissals, suspended or reduced fines, or other relief at arraignment. Judges might be more willing to be lenient at arraignment so they can avoid further congesting the courts calendars with a trial.

That being said, there are some circumstances in which pleading not guilty and asking for trial might be necessary or even strategically beneficial. The most obvious is if the officer who issued the ticket does not show up for trial, the case will be dismissed. A veteran who has a good case on the merits and, after hearing all the options, will

choose to proceed to trial. Also, if the judge isn't willing to show any leniency or work with the veteran on a plea bargain that fits his needs, it might be better to go to trial and hope for a different judge.

Trial

Before Trial

When you are counseling a veteran to prepare him for trial, it is important to help him break down the elements of the offense alleged. Though informal, these are still criminal proceedings, and the State or City bears the burden of proving each element beyond a reasonable doubt. Understanding the elements that need to be proven may help guide the veteran in preparation of evidence and questions to ask the officer in cross examination. For examples of commonly cited codes broken down into elements, please see the appendix.

Defendants have a right to testify (and since it's a criminal matter, the right to not testify), call witnesses, and submit evidence. So, it's important to counsel a veteran proceeding to trial to prepare in advance. He should write down any notes on the events that occurred and what he wants to say. He can use those notes throughout the trial and during his own testimony. He can also prepare photos of the scene of the alleged infraction from different angles and locations, obscured traffic signs or signals, the view from the place the officer was sitting when he claimed to have seen you commit the offense, etc. Diagrams of the scene might make it easier for the judge to understand the circumstances or to illustrate inaccuracies in the officer's testimony. If possible, a Google Map of the area is helpful.

If anyone was present and observed the situation, the veteran can bring the witness to court and/or subpoena them in order to compel them to be present. As a practical matter, it is not a good idea to subpoena a reluctant witness and risk that they seek revenge for being called in by damaging the case. However, it might be a good idea to subpoena a witness if that person wants to testify but needs to be excused from work or school. If during clinic you have a veteran that wants help with a subpoena, ask us and we will provide further information.

The Basics

Infraction trials are relatively informal and quick, lasting anywhere from 5 to 30 minutes. There is no right to a jury trial in infraction cases, but a jury trial may be demanded if there are misdemeanor charges (e.g., a Failure to Appear charge). In some courts there might be a district attorney or city attorney present to serve as a prosecutor, but in traffic court it is typically only the officer who issued the ticket.

Usually, the State's (or City's) case is based entirely on the testimony of the officer who issued a ticket, so if the officer is not there the case will likely be dismissed. If the officer is there, the veteran can speak to the officer before trial and ask the officer

to dismiss the case in the interest of justice (see above for discussion) or to reduce the charges.

Note: Many judges will not allow traffic school, even where the defendant is eligible, if the defendant proceeds with a trial and is found guilty. Here's how it works: The defendant shows up for trial and he is eligible for traffic school. The officer is present, so he's not going to get a dismissal. The defendant wants to proceed with a court trial because he thinks he's not guilty. If he pleads guilty without going to trial, the Court will allow him to do traffic school. If he rolls the dice, proceeds with trial, and is found guilty, the court will not let him go to traffic school, even if he is eligible. This policy, which is widespread, effectively punishes the defendant for going to trial, because he gets a better outcome if he pleads guilty up front. Without traffic school, the point (if it's a point violation) will go on their license for three years, which will result in a significant insurance premium increase.

As with arraignment, there are many trials scheduled at the same time. The judge or bailiff will go through the procedures and advise all the defendants of their legal rights (e.g., the right to change the plea to the charge, the right to remain silent, to confront witnesses, to have sentencing delayed and to appeal). They will then ask if any of the defendants or their witnesses need an interpreter, and the clerk will administer the oath to all witnesses who will testify. Finally, they will start calling cases.

Officer's Testimony

After informing the defendant of the charges, the judge will ask the prosecuting attorney or the officer to proceed with the People's case, which, again, typically consists entirely of the testimony of the officer. After the officer is done testifying, the defendant has the right to cross-examine him. If the judge doesn't ask the defendant if he has any questions for the officer, the defendant can bring up his right to do so.

Please feel free to counsel the veteran about cross-examination and objections according to your perception of his ability to effectively use these tools. Keep it relatively simple and go over exactly what the veteran might say to object (and have him write it down). A detailed summary of hearsay law will probably be counter-productive and confusing but going over some common applications may be helpful.

For example, you might counsel the veteran that if the officer reads his testimony from his notes or the ticket, he can object by saying something like "Objection, Your Honor; Hearsay - the officer is reading directly from the ticket and has not stated that he needs the notes to refresh his memory of the events. I request that he lay the proper foundation and I request to see his notes." Or if the officer did not actually see the alleged violation occur and is testifying about something he heard from someone else, you might counsel the veteran to object by saying something like "Objection,

Your Honor; hearsay. The officer is talking about what someone else said happened and that person has not been called as a witness today.”

Defendant's Case

After the officer testifies and introduces other evidence, if any, the judge will ask the defendant to put on his case. The defendant should give the judge any photos, diagrams, etc., and the judge will mark them as defendant's exhibits or call any witnesses. This is also the time for the defendant to testify as to his version of events. Again, make sure to work with the veteran to make sure he is well prepared and knows exactly what he will say. It is important to take notes and carefully practice his testimony before the trial. The officer or prosecuting attorney has the right to cross-examine a defendant after his testimony, so it might be helpful to practice with the veteran by asking him questions that might be asked in the cross-examination.

After the defendant's case, each side may be asked if they wish to make a closing argument. This is often skipped in traffic court, but if the defendant strongly feels that they want the opportunity to make a closing argument, they can assert their right to do so. (See *People v. Douglas* (1973) 31 Cal.App.3d Supp. 26, 27-28 [Traffic court conviction reversed because of court's refusal to allow defendant to make a closing argument in a bench trial.])

Decision and Sentencing

After all the evidence and arguments are presented, the judge will ask the parties to submit the case for a decision.

If the veteran is found not guilty, he will be free to leave. However, if he had additional related charges like a Failure to Appear or Failure to Pay, those charges are not automatically dismissed with the underlying ticket. So, if it is unclear which charges are being dismissed, the veteran should respectfully ask the judge that all charges be dismissed, including any civil assessments (e.g., if a ticket was sent to collections).

If the veteran is found guilty but is unable to afford the fines and tickets, he can ask for a suspension or reduction of fines and assessments based on his inability to pay, payment of fines in installments, or community service. He should be prepared to present documentation of his financial situation. See further discussion of these options in the “*Pleading Guilty or No Contest*” section above.

Make sure to counsel the veteran on the importance of following through with his sentence or any orders the court makes. Failure to pay the fine, make an installment payment, complete community service, or anything else the court orders will result in *another* separate misdemeanor charge, and more fines and assessments. If the veteran knows ahead of time that he won't be able to do something ordered by the deadline, he should contact the court and request an extension *before the deadline has passed*.

Other Options for Resolving a Ticket

Correctable Offenses – “Fix-it Tickets”

You may encounter veterans whose traffic ticket is a "correctable violation" or a "fix-it" ticket. In this case, the citation itself ("Notice to Appear") should have the "yes" box checked below "Correctable Violation." Also, the court will probably send a courtesy notice indicating one of two options: 1) pay for the violation or 2) show proof of correction.

Once the veteran shows proof of correction and pays a dismissal fee, the court will dismiss the relevant charge. Some common tickets of this kind are:

- a. Equipment violations — "fix-it" tickets (like a broken taillight)
- b. Driver's license violations (like if you did not have your license with you when you got your ticket, or it was expired)
- c. Car registration violations (like if your registration is expired, or you did not have it with you when the police asked you for it).

After fixing the problem, the veteran must get an authorized person (examples below and in appendix) to sign the "Certificate of Correction" part of the ticket. Before the deadline on the ticket, the veteran must take or mail the signed ticket with proof of correction to the court, along with the \$25 dismissal fee for each violation. The veteran can check the ticket or contact the court to see if the court accepts proof of correction by mail. If the proof of correction and the dismissal fee are submitted before the deadline, the court will then dismiss the case and it will not go on the veteran's record.

Getting Proof/Certificate of Correction Signed

To get the ticket (citation) signed, the veteran may have to pay an additional sign-off fee to the agency. For the following types of violations, here are the appropriate sign-off agencies:

Type of Violation

Any violation

Brake lights, Muffler violations, Smog device

Driver's license, Proof of insurance, Registration violations

Sign-off Agency

Police Department, the CHP, the sheriff, the marshal, or another law enforcement agency regularly engaged in enforcement of the Vehicle Code.

Any station that is licensed to make such inspections and certifications

The DMV or by any clerk or deputy clerk of a Los Angeles Superior Court

Always make sure you have the correct documentation.

Proof of Insurance Violations

A traffic ticket issued for lack of proof of insurance is not a correctable violation, but it has some similarities. If the veteran had insurance at the time he was ticketed but did not have the proof of it at the time, he may be able to get the amount of the ticket lowered considerably by providing proof to the court that he had insurance. Remember, the veteran must have had insurance at the time he got the traffic ticket. Obtaining insurance after being ticketed will not suffice to lower the fine. If the veteran did not have insurance when he was ticketed, he will likely be responsible for the full fine, but he should still get car insurance coverage to comply with the law!

Pay Up

The veteran has the option of paying the bail amount for the ticket *before* the court date on which he is required to appear. The bail can be paid online, by phone, by mail, or in person at the courthouse.⁶ When the veteran pays the bail amount and doesn't show up on the court date, the bail is forfeited, the case is closed with a conviction for the violation, and the violation info is shared with the DMV. However, for most of the participants in our clinic, simply paying the ticket will not be an option due to financial limitations.

Inability to Pay Forms

If the veteran's motions are denied and he pleads guilty, or is found guilty, he may submit Judicial Council Forms TR-320 (Ability to Pay Form) and TR-321 (Order re: Ability)⁷ to request that the court reduce the fine, allow an installment payment plan, allow more time to pay, and/or permit the completion of community service in lieu of having to pay the fines or fees. Supporting evidence of financial hardship such as proof of income and expenses should be attached to the form.

Request Community Service

If the veteran pleads guilty or no contest, or is found guilty, and the fines are not suspended or otherwise dealt with, she may be permitted to perform community service instead of having to pay the fines for the tickets and warrants. (Pen. Code, § 1209.5.) The judge has discretion whether to allow the veteran to perform community service in instead of paying a fine. The veteran should bring proof of income demonstrating that she cannot afford to pay the fines. Examples include a letter from the client's residential housing facility, a VA rating designation stating the amount of pension or compensation the client receives, a letter confirming that the client receives General Relief, or a letter from the Social Security Administration stating that the client receives SSI due to disability.

⁶ For more information: <http://www.lacourt.org/division/traffic/TR0009.aspx>

⁷ Some counties have created local forms to submit the same request

There is usually a fee associated with performing community service. This fee is based on the number of hours the veteran is ordered to perform. Community service fees are paid to third party providers and cannot be waived. The veteran may be able to pay in two installments, one portion when registering for community service, and the rest when submitting proof of completion of community service to the court. Community service providers vary by courthouse. See appendix for fee schedule and details of one such community service provider, "Volunteer Los Angeles," which serves the Metro courthouse.

Some residential facilities will oversee a veteran's community service as well as provide the court with proof once the service is completed. Ask the veteran if the facility where she lives will provide this service. If so, the veteran should ask the judge to order her community service to be performed at the facility where she lives. This will save the veteran time and money otherwise spent on transportation to another provider.

If the judge grants community service, the veteran will receive a document with 3 key pieces of information:

1. The number of community service hours required
2. The date by which the hours must be completed
3. The location(s) where the veteran must perform her community service hours.

A good rule of thumb for veterans is to complete her community service hours as soon as possible. Community Service providers may be overloaded with requests, resulting in the veteran waiting for her turn. These delays can cost a veteran weeks or months. Once the veteran has completed her hours, proof of completion must be sent to the court. Some providers will send this for the veteran, with others she will have to bring it to court herself.

Make sure to advise her if she requests or is ordered to do Community Service instead of paying fines but does not complete the hours or submit the proof of completion by the deadline, she will likely be subject to a separate misdemeanor charge and if it is a vehicle code violation, the court may notify the DMV under Vehicle Code section 40509.1. Also, given that it costs money to complete traffic school, this option may not make sense for certain low-fine tickets.

Trial by Written Declaration

The veteran may also contest the ticket without appearing in court by submitting a TR-205 Request for Trial by Written Declaration form with written testimony and

attached evidence.⁸ The biggest disadvantage to this approach is that the court requires payment of the full amount of the bail at the time of the request. Although the bail amount is refunded if the defendant is found not guilty, most of the participants in our clinic will not be able to afford to pay the full amount of upfront.

One benefit of this option is that even if he is found guilty in the trial by declaration, he can still request a trial de novo, meaning he will get 2 bites at the apple.

If the veteran does choose to proceed with this option, he can submit the request in person or by mail. If submitting by mail, he should send certified mail, return receipt requested. Several weeks after submitting the written declaration form, the court will send written notice of the decision. If he is found guilty, he has 20 days to file a Request for a New Trial (Trial de Novo). He can also request a copy of the officer's declaration from the court file in order to prepare for the new trial.

Traffic Violator School

If the veteran is charged with violating a statute relating to the safe operation of a motor vehicle, he may opt to go to traffic school in order to keep the violation and point off his record.⁹ Here are the requirements:

- Plea of guilty or no contest or conviction
- Deposit and *forfeit* full amount of bail
- Pay extra fee to the court
- Pay extra fee to the traffic school
- Cannot be ordered for two-point violations
- When received violation was for operating a vehicle requiring only a class C or a class M license (also more complicated if a driver holds a commercial license in CA or another state)

If the veteran is interested in and can afford to opt for traffic school, they need to make sure they deal with an FTA separately (for example, ask for dismissal of FTA as part of plea bargain when agreeing to plead guilty or no contest on underlying offense) as it is a separate offense that will not be affected by completion of traffic school.

If the veteran is ordered by the court to attend traffic school but fails to do so, he may be charged with a separate misdemeanor per Vehicle Code sections 40000.25 and 42005(e).

⁸ <http://www.courts.ca.gov/documents/tr205.pdf>

⁹ CA Veh. Code §1808.7

Other Important Considerations

Interviewing Veterans about Service-Related Disabilities

Veterans accessing our services may benefit from the court understanding the narrative of their military service and its bearing on their legal issues. Proceed with caution and sensitivity:

- Clearly identify yourself and your purpose for asking questions. " I can better help you with your legal matter if you tell me a about your military service..."
- Be respectful. Not all veterans suffer service-related disabilities. Many suffer "invisible wounds." Veterans from both groups are likely to have felt stereotyped in the past. Ask questions without making assumptions and know when to back off.
- Start easy. Develop trust and rapport through pleasant, open-ended questions first. Don't cut right to the chase. Avoid treating the veteran like a witness at a deposition.
- Listen. A veteran's answer to a simple question may be a story. Listen, and if need be, ask for clarification after.
- Be human. It's ok to show compassion. It's ok to say, "I'm sorry for your loss," or "I'm sorry this happened to you." Avoid saying, "I know how you feel," or "I understand."
- Review how the veteran's narrative can best be used for the purposes of resolving her outstanding legal issues. Help the veteran frame her narrative in a way the court will most appreciate hearing it.

DMV Points

If the veteran has a moving violation – any violation related to the unsafe operation of a motor vehicle, it is important to counsel him about DMV points. Go over his DMV printout (if he brought it – printouts can be obtained from the DMV website for a \$2 fee) or any documentation of previous tickets.

For most moving violation convictions, the DMV assigns "points" to the violator's record. Most violations are 1 point, but some more serious violations are 2 points. Per Vehicle Code section 12810, a driver may be classified as a negligent operator and receive a 6-month license suspension plus a 6-month probation if he accumulates:

- 4 points within 12 months
- 6 points within 24 months
- 8 points within 36 months

****Note:** The point(s) for a violation are accumulated at the time of *conviction*, not the date of the violation. Conviction means either date the defendant was found guilty, pled guilty, forfeited bail on a paid ticket (arraignment date, not day actually paid), or was convicted *in absentia* if he didn't show up to the hearing.

During the probation period, the license can be suspended for another 6 months for any violation or collision whether or not the violation would actually carry points.

Please see appendix for sample printout of DMV printout and instructions for interpreting its contents.

Vet Centered Arguments for leniency

The Supreme Court has recognized that “Our Nation has a long tradition of according leniency to veterans in recognition of their service....” (*Porter v. McCollum* (2009) 558 U.S. 30, 44 [130 S.Ct. 447; 175 L.Ed.2d 398].) In support of that sentiment Court cited Penal Code section 1170.9 that allows for alternative sentencing of veterans involved in the criminal justice system. While that statute is not directly relevant to infraction cases, it does demonstrate that California’s legislature recognizes that in some circumstances the experiences of veterans warrant special consideration and leniency of sentencing.

Resources:

Here is a list of resources used in the development of this manual that might be useful for further information.

- *California Judges Benchguides, Benchguide 82; Traffic Court Proceedings* by the Administrative Office of the Courts, Judicial and Court Operations Services Division. 2013
- *Fight your Ticket and Win in California* by David W.1982. Reprint.: Nolo, 2013. Print.
- California Courts Traffic Court Self-Help website presented by California Administrative Office of the Courts: <https://www.courts.ca.gov/selfhelp-traffic.htm?rdeLocaleAttr=en>

Appendix A: Overview of Possible Strategies at Arraignment

1. Request a **Dismissal in the Interest of Justice**, in writing whenever possible. Make sure to ask for the court to dismiss *all* charges, both the underlying charge (original offense for which ticket was written) *and*, if applicable, any Failure to Appear or Failure to Pay charges and associated fines, fees, and assessments be dismissed, and any related arrest warrants be quashed.

- a. Other considerations:
 - i. Make sure to have reasons clearly laid out and, if possible, documentation to back them up.
 - ii. Prepare the veteran for the possibility that the judge may offer some sort of compromise – e.g., drop one charge in exchange for guilty plea for other. Make sure that the veteran understands the consequences of a guilty plea for each offense (points, what appears on record, etc.) so he can make an informed choice.
2. If the court won't grant a request for Dismissal in the Interest of Justice, ask if the judge will do any applicable combination of the following if veteran enters **guilty or no contest plea** (and include in the motion as alternative to dismissal):
 - a. Reduce any misdemeanors to an infraction (e.g., misdemeanor FTA or FTP)
 - b. Suspend the fines and fees, including any civil assessments
 - c. Reduce the fines and fees, including any civil assessments
 - d. Allow installment payments for the amount owed
 - e. Grant community service in lieu of fines
 - f. Note: *Bring documentation of low-income
3. Plead **not guilty** and set a trial date.
 - a. Ask to be released on own recognizance or "O.R." in lieu of paying bail.