

**TEMPORARY JUDGE
PROGRAM**

**TRAFFIC
SANTA CLARA COUNTY
SUPERIOR COURT**

Course Objectives

- Understand how to conduct a fair arraignment and trial
- Learn the basics of a trial involving a speed survey
- Know how to effectively and correctly impose traffic fines and fees including traffic school fees

The Judge in Traffic Court

- "...the trial of traffic infraction cases call for the talents of a person who understands the special societal function of traffic law enforcement, who is committed to its educational objective and who has the personal capability of dealing with people expeditiously, fairly, and in good spirit." People v. Lucas (1978) 82 CA3d 47, 54, 147 CR 235.

Arraignment

- Advisement of Constitutional Rights
- Advisement of consequences of plea
- Advisement of right to verbatim record of proceedings (PC1045)
- Arraignment by video
- Interpreters

Pleas

- Not Guilty (Set for trial within 45 days unless time is waived)
- Guilty
- No Contest
- Traffic School
- Proof of Correction
- Demurrers

Notice to Appear

- When filed in lieu of verified complaint is a complaint to which a plea may be entered(VC40513) (People v Barron)
- PC1024-if defendant fails to enter a plea enter a not guilty plea for him/her with time not waived and set trial date
- Electronic citations

Notices to Correct

- VC40610-can be issued for registration, license and mechanical violations unless officer finds fraud or persistent neglect, an immediately safety hazard, or violator does not agree to or cannot promptly correct the violation
- VC40416-misdemeanor charge for failing to provide proof of correction
- Insurance violations are correctable with proof of insurance on the date of the citation-cannot be signed off -must show proof in clerk's office or court

Misdemeanors

- Punishable by jail (six months and/or \$1000 fine)
- Right to court appointed counsel if eligible
- Right to judge after arraignment
- Possible immigration consequences
- No right to trial by written declaration
- Not eligible for traffic school
- Can reduce some to infractions with consent of defendant PC 17 and PC 19.8
- Right to appeal within 30 days

Infractions

- Punishable by fine only (Generally maximum is \$250)
- No right to court appointed counsel
- No right to a jury trial
- Trial by written declaration is OK for most VC violations if made prior to due date (VC 40902)
- Traffic school allowed
- Right to appeal within 30 days
- Generally all provisions applicable to misdemeanors apply to infractions with above exceptions

Juveniles

- Traffic infraction matters are handled in Traffic Court
- Parents are not required to be present
- Bench warrants cannot be issued
- Convictions for drug or alcohol violations result in (1) year license suspension (under 21)
- Allowed fewer number of points before DMV takes action

Failure to Appear at Arraignment

- Bail can be forfeited
- Civil Assessment (PC 1214.1)
(use this option for all that are eligible)
- Trial by Declaration pursuant to VC 40903
- Trial in absentia (PC 1043)
- Bench warrant issued with increased bail
(Not too common anymore)

Trials

- Call "roll call" from the calendar & deal with continuances and other requests
- Arraignment/Trials-advise of basic rights
- Advise of procedures (optional)
- Swear in witnesses
- Standard of proof-reasonable doubt
- Not Guilty - order Bail Exoneration
- Guilty - Fine or Traffic School (Court must consider TS if requested - People v. Wozniak)

Officer's Testimony

- Reading from notes. 771 Evidence code
- Refresh recollection
- Can't recall all details
- Note written shortly after enforcement stop

1118 Penal Code

- Motion for Acquittal
- Lack of a Prima Facie Case
- No Duty to defend an insufficient case

License Suspensions

- Court's authority limited to that permitted by statute (People v. Harper (2000) 82 CA4th 1413)
- VC 13200-allows suspension for speeding
- VC 13200.5-allows for over 100mph
- VC 13202.5-Mandatory (1) year suspension for minor convicted of alcohol/drug offense

Speeding Violations

- VC 22349 (a)-Exceeding the Max Speed
- VC 22350 –Unsafe Speed
- Different Elements and Defenses
- Citation must have: approximate speed, prima facie or maximum speed and any other speed alleged to have been exceeded

Pacing

- Bumper Pace, Definition, Distance and Duration
- Speedometer Calibration
- People v. Lowe (2002) 105 Cal App. 4th Supp. 1
- No Survey required

Radar/Lidar Citations

- Speed Trap Rules-VC 40802
- Does not apply to maximum speed violations, school zones, local roads
- Prima facie speed must be justified by a traffic and engineering survey
- 85th percentile-round up or down and can be 5 miles below if justified
- Officer-post training required
- Meets or exceeds NTHSA standards
- Unit independently calibrated within 3 years

Possible Grounds for Appeal

- Judge as Prosecutor
- Refusal of Cross Examination
- Refusal to allow relevant testimony
- Discovery Issues
- Evidence does not support verdict
- Guilty verdict in open court (submission)
- Improper use of Speed Trap evidence
- County Seat

Appeals

- Notice must be filed within 30 days
- Defendant must submit Proposed Statement on Appeal
- Court has duty to settle the record
- Use electronic recording and transcript

Traffic School

- Procedures and Eligibility CRC 4.104
- **People v. Wozniak (1987) 197 Cal.App.3d Supp. 43 , 243 Cal.Rptr. 686**
 - Court cannot have "policy" to deny after conviction
 - Benefit to Defendant
 - No arbitrary refusal
 - No reason for denial need be put on record

Traffic School Eligibility

- Non-commercial license
- One pointer
- 18 month requirement (date of citation to date of citation)
- 25mph over speed limit (15mph over for juveniles)
- No alcohol related offenses
- Judge has discretion

Imposition of Sentence

People v. High (2004)119 CA4th 1192

Must specify fines, assessments and fees on the record

Fines

Includes:

- Base Bail
- Penalty Assessments
- Fees
- Reasonable
- Community Service in lieu of fine

Base Bail

- Each offense has a set base bail amount that can be used as a guideline for the fine-shown on the convelope
- VC 42001 sets general maximum fines
 - Up to \$100 first offense
 - Up to \$200-2nd offense within (1) year
 - Up to \$250-3rd or subsequent offense within (1) year

Assessments

- Mandatory to include penalty assessment to base bail
- Amount of assessment depends on date of offense-goes from 170% to current 310%

Fees

- Court Operations Penalty Assessment-\$40/conviction
- \$10-Prior Search Fee
- \$1-Night Court Fee
- \$49-Traffic School Fee
- \$30 –Fine Payment Extension Fee
- \$24-Traffic School Completion Extension
- \$10-Hold Fee for FTAs and FTPs
- \$15-Warrant Fee for FTAs and FTPS
- 1/1/09 new fees (\$35 conviction fee per infraction \$30 per misdemeanor)

Standard Red Light Fine

- \$100 Base fine
 - \$300 or \$310 Penalty Assessment
 - \$10 Prior Search Fee
 - \$35 ICIN Fee
 - \$40 Court Operations Penalty Assessment
 - \$1 Night Court Fee
 - \$4 EMS Fee
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- Total Fine=\$490 or \$500 (plus \$30 for extension to pay)
 - Traffic School = \$529 (no prior search fee but \$49 traffic school fee) **Use the chart**

Sample Fine Calculation #1

Count 1-VC21453(a)-Red Light
Count 2-VC4000a-Registration
Count 3-VC16028A-Insurance
Fine

Ct 1-\$100 suspend 40	60
Penalty Assessment	180
Prior Search Fee	10
Court Security Fee + ICIN Fee	75
Ct 2 Security + ICIN Fees	75
Ct 3 Security + ICIN Fees	75
Night Court Fee	1
EME Fee	12
Total	\$488

Sample Fine Calculation #1 Continued

Traffic School Fee

Ct 1 (Red Light)	\$323
Ct 2	75
Ct 3	75
EMS Fee	12

Total-\$485

**Sample Fine Calculation #1-
Continued**

Assume the same charges except that you have been shown proof of correction for the registration violation and proof of insurance valid on the date of the citation

Ct 1-Red Light	100 suspend 40=	60
Penalty Assessment		180
Prior Search Fee		10
Court Operations Penalty Assessment		40
ICIN Fee		35
Night Court		1
Proof of Correction Fee		50
EMS Fee		4
Total		\$380
