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CITATION DEFENSE FOR UNHOUSED CLIENTS

AN INTRODUCTION TO CALIFORNIA TRAFFIC COURT

UCLA School of Law
Veterans Legal Clinic

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Southern California

UCLA School of Law **Veterans Legal Clinic**

The Veterans Legal Clinic at UCLA School of Law seeks to address the unmet legal needs of veterans, particularly those staying or accessing services at the West Los Angeles VA Medical Center, and develop the practical skills of law students while enhancing their knowledge of, and appreciation for, the issues facing our former military service members. This document does not reflect the views of UCLA or UCLA School of Law.



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The ACLU Foundation of Southern California is a 501(c)3 that works to defend the civil liberties of all people as enshrined in the U.S. Constitution and the Bill of Rights. For more than 100 years, through litigation, policy advocacy, media advocacy, and organizing, the ACLU SoCal has fought to expand and protect the civil rights of all people – namely women, youth, people of color, lesbian, gay, bisexual, transgender and nonbinary people, immigrants and refugees, members of minority religions, disabled people, people experiencing poverty or houselessness, and people who are incarcerated.

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Disclaimers:

This document provides general legal information only. It is not intended to provide individualized legal advice. Individuals with citations are encouraged to seek legal counsel for specific questions. Attorneys representing individuals are encouraged to reach out to other advocates for advice and mentoring.

This document focuses solely on the legal process, however, we recognize the importance of providing assistance as a means to build community power. To this end, we recommend Western Regional Advocacy Project's (WRAP) House Keys Not Sweeps Legal Defense Clinics General Operations Manual, available on their website, wraphome.org/ldc, for guidance about how to structure a legal clinic focused on quality-of-life citation defense.

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Introduction

Welcome!

Last summer, the Supreme Court's *Grants Pass* decision gave the green light to local governments seeking to make homelessness a crime by approving a city ordinance banning camping and the use of camping paraphernalia. In the wake of this decision, jurisdictions throughout California are passing laws that criminalize the basic life activities of unhoused people. These new ordinances add to the disproportionate burden placed on unhoused people by quality-of-life laws, which are aimed at strictly enforcing low-level public order offenses.

The new wave of anti-homelessness laws makes the cruelty of criminalizing homelessness more visible than ever, leading many to wonder how they can help. To that end, this manual provides a short, practical introduction to representing unhoused clients in California state courts, specifically traffic courts, which handle most low-level criminal infraction charges. It is primarily intended for attorneys and student-attorneys unfamiliar with citation defense work, or who may be appearing in court for the first time.

Part I of the manual gives a brief overview of how our legal system criminalizes homelessness, leaving unhoused people facing disproportionate numbers of citations for quality-of-life crimes and other minor issues.

Part II provides practical advice for working with unhoused clients, with a focus on trauma-informed lawyering and client-centered practice.

Part III introduces the basics of traffic court, covering issues like how to locate a citation, getting your client's case into court, addressing past-due citations, and what to expect when you attend an arraignment or trial on behalf of your client.

Part IV discusses common ways lawyers representing unhoused defendants in traffic court challenge citations. It covers factual and procedural defenses, California's laws allowing dismissal in the interest of justice, the necessity defense, and challenging the fines and fees associated with a citation.

Part V discusses alternative programs for unhoused clients and issues to consider when counseling your clients on these programs.

I. Quality-of-Life Crimes and Homelessness: An Overview

Municipalities criminalize activities associated with being unhoused in an effort to remove homelessness from their streets. In fact, these laws only worsen the crisis.

Quality-of-life offenses punish the basic life activities of homelessness, such as camping, sleeping, and lying down, focusing on policing minor offenses in public space. This includes a range of laws making it illegal to sleep in a park, be intoxicated in public, or solicit money on the streets. Depending on the city, these laws may result in warnings, fines, or even misdemeanor charges.

Quality-of-life policing has a disproportionate impact on poor and minority communities, and especially on unhoused people.¹ It is also closely tied to the broader criminalization of homelessness. For example, a 2016 study by the City of San Francisco identified 36 different quality-of-life crimes that disproportionately impact unhoused people in city, county, and state codes.² These laws generally fall into a few broad categories:

- Laws criminalizing existing in public spaces, such as laws banning sitting, sleeping, or lying on public property (“sit/sleep/lie” laws), camping bans, and laws that criminalize using tents, blankets, or sleeping bags in public.
- Laws criminalizing necessity of life activities, such as bans on public urination.
- Laws that criminalize minor nuisances in public, such as public intoxication, possession of open containers, or panhandling.

These laws typically provide for a great deal of discretion, allowing individual police officers to control whether someone gets a warning, a citation, or in some cases a misdemeanor arrest.³ Faced with public pressure to remove homeless encampments, quality-of-life laws have become a way for police to push homelessness out of sight.⁴

Since 2006, the National Homelessness Law Center has tracked the steady growth of laws criminalizing homelessness, following 187 cities across the country. Over that time, laws banning camping, sleeping, lying down, sleeping in cars, panhandling, so-called loitering, and food sharing have all become more common.⁵ With the recent *Grants Pass* decision, the Supreme Court removed a legal protection against criminalizing basic acts associated with homelessness. Cities in California have taken notice, passing increasingly draconian ordinances targeting unhoused people.

- In August 2024, Fresno banned camping on public land. Violations can result in a misdemeanor and up to one year in jail or fines of up to \$1,000.⁶
- In September 2024, San Joaquin County adopted an ordinance forbidding “erecting a tent or other form of shelter for the purpose of sleeping, arranging bedding for the purpose of sleeping, and using a standing or parked vehicle for the purpose of sleeping if done so beyond 60 minutes or within 300 feet of any previous stopping point in a 24-hour period.”⁷

This movement toward criminalizing homelessness is not limited to local municipalities. In August 2024, Governor Gavin Newsom held a press event where he personally threw away items at unhoused encampments, and then threatened to take funding away from local governments that were not active enough in removing encampments from their streets.⁸

While unhoused people are increasingly criminalized, they also face hurdles to accessing justice in court. Basic logistical issues can create major problems, as many unhoused people lack a permanent mailing address, making court notice by mail virtually useless. Unsheltered people living in public may be unable to leave their property unprotected to spend time in court, or they may lack the resources to transport themselves to court. Citations often go unaddressed, leading to additional fines and penalties and further exacerbating the problem of homelessness. Ultimately, criminalization only worsens the existing homelessness crisis and creates additional barriers to obtaining housing.⁹

II. Working with Unhoused Clients

The basics of working with clients who have experienced trauma and practical strategies for working with unhoused clients.

Trauma-informed lawyering, at its core, is about adjusting your approach to working with clients in a way that centers the client's experiences and emotions, with the goal of creating a safe environment and avoiding retraumatization. It also means taking care of ourselves as advocates and managing the vicarious trauma of hearing about and empathizing with a client's traumatic experiences.

Put simply, the hallmarks of trauma-informed practice are when the practitioner... puts the realities of the clients' trauma experiences at the forefront in engaging with clients and adjusts the practice approach informed by the individual client's trauma experience.

- Sarah Katz and Deeya Haldar, "The Pedagogy of Trauma Informed Lawyering"

If you work with unhoused clients, you will most likely be working with people who have experienced trauma. Getting kicked out of a home through eviction is itself a traumatic experience. Unhoused people are likely to experience additional trauma due to the vulnerability of living on the street, especially if they are women and/or members of the LGBTQ+ community.

Clients carrying trauma into their work with you may appear "difficult" or "uncooperative." Effective lawyering requires understanding that many such behaviors are the result of clients' life experiences. Regardless of the cause, trauma-informed lawyering provides strategies for managing these situations and creating positive working relationships.

A. Practicing Trauma-Informed Lawyering

Below are some practical tips to incorporate trauma-informed lawyering into your work with unhoused clients.

Identifying Trauma: Be aware of the trauma you might encounter with a client and develop skills to identify and respond to a client's trauma responses. Prepare ahead of time by asking yourself questions like:

- What's the best way to greet the client and welcome them into a potentially unfamiliar space?
- How are you going to establish rapport and trust with the client?
- Are there things you can offer (like snacks or drinks) that might make the client feel more comfortable?

When asking about potentially traumatic topics, it is important to remain aware of how the client is responding and offer to take breaks or discuss another topic if the client is emotionally struggling with a line of questioning.

Adjusting the Attorney-Client Relationship: Working with clients in a trauma-informed way requires taking a more expansive view of what it means to provide assistance.

- Focus first on building trust and rapport so that you and the client can work together collaboratively to solve the client's problems.
 - Be transparent and open about strategic options and allow the client to set the agenda according to their own priorities and needs.
 - Use your research and investigative skills to help connect a client to additional resources to meet their needs.
 - Manage client expectations. Be upfront about the limitations of your capacity and skill set. If you promise to do something for a client, be sure you follow through.
-

Adapting Legal Strategy: Taking into account a client's trauma and trauma responses may require you to adjust your advocacy. This does not necessarily mean you will be able to shield your client from potentially difficult or challenging situations. However, you should be mindful of their trauma when determining the appropriate legal strategy.

- In most cases, you will appear in court on your client's behalf. You should discuss whether your client will appear in court early in the process.
- While calling the client as a witness may seem ideal, if that risks triggering a bad response, the client's presence on the stand may end up undermining their case.
- If a client does come to court, you can help them feel more prepared to manage their trauma response by communicating openly with the client, carefully walking the client through the court process, and answering questions.

If a client chooses to attend court, make sure you have a clear day-of plan.

- When is the client going to arrive?
- How are they getting to court? Is it possible to provide or arrange a ride?
- Where are you going to meet them?
- How long can they expect to wait before it's their turn?
- If they are unsheltered, is there someone available to watch their property while they are gone?
- Is there an option to appear virtually?

Communicating with your clients about their needs and adjusting to meet those needs can help maintain a collaborative working relationship and ensure the client is prepared for their day in court.

Clients with disabilities are entitled to request reasonable accommodations in order to attend court. This includes accommodations for mobility issues, as well as assistance with technology or other services that enable the client to fully participate in court.¹⁰

Preventing Vicarious Trauma: Trauma-informed lawyering is also about taking care of yourself. You may be exposed to traumatizing stories and experiences that may even trigger your own past traumatic experiences.

- When working with the client, consider how you are going to manage your own emotional reactions. If you expect to encounter vicarious trauma, make plans for recovery.
- For yourself, what self-care activities will help you to process or de-stress?
- With your colleagues, how can you work with each other to “debrief” on the emotional aspects of your experiences and process them together?

B. Other Practical Advice for Working with Unhoused Clients

Staying in touch with unsheltered clients may be especially challenging. There are many practical issues that may affect your ability to communicate regularly with your client. For example, your client may not have consistent access to electricity to charge a phone or reliable income to pay their phone bill. Their belongings are in public and therefore at greater risk of theft or damage. Make a plan to stay in touch with your client.

- Learn about your client’s living situation. Where do they typically stay? Are you able to get there and look for them if you can’t reach them?
- Ask if they have close friends or family that they stay in touch with and see if they will serve as additional resources for staying in touch.

Your client may have needs that are more immediately pressing than your legal case, such as accessing services or housing. It’s important to ask questions and listen to your client, and it may present opportunities for you to help in other ways.

- Are there other programs or organizations that can assist with specific problems (e.g. employment, housing, public benefits issues, health issues)?
- Connect your client directly to these services by helping them to go through application or intake processes.
- Sometimes informal help can be just as useful as more formal assistance. If arranging a ride for your client to the DMV can help solve a problem, don’t be afraid to offer (though ask your supervisor whether this conflicts with any rules or policies first).

III. Citations & Traffic Court

What are the questions you need to answer and steps you need to take before you get to court for an arraignment?

We recommend reading through this section before your initial meeting with your client. It provides information about the ways you and your client may be able to find all of the necessary information about their ticket and how to schedule an arraignment date, if necessary. Much of this can be accomplished in your first meeting with your client and may require their presence.

A. Finding the Citation

Before you get to court, you should gather all of the information you need on your client's ticket. Clients may not have a copy of a citation or notice and may not remember the precise date of a citation.

If your client doesn't have a copy of the citation or notice (or if the copy is illegible), you should first get as much identifying information from the client as you can, including 1) Full Legal Name, 2) Date of Birth, and 3) Driver's License Number (if available).

Using this information, you should be able to find the ticket online or via phone. We recommend you do this **with your client present**, as information in online portals is often incomplete, and you will need your client's permission to obtain information from the court.

Online Searches: Most counties offer online searches for citations using the citation number or your client's identity. However, these records are not always complete. There may be delays in entering the ticket into the system or inaccurate information that prevents you from locating the ticket. Tickets that are past their due date may also be removed from the system. If your client did not provide a driver's license number at the time of the citation, searches based on license numbers will be inaccurate.

Calling the Clerk: The more reliable way to find your client's ticket(s) is to call the court clerk with your client. Over the phone, the clerk should be able to find the ticket and provide basic information, such as the citation number and its status. Once you have this information, you may also go to the court to obtain a copy of the citation and the frontsheet explaining the charges. Obtaining this information early is important, as it will help you answer questions about the status of the ticket, especially if the arraignment deadline has already passed.

If you contact the court and they are unable to find a record of the ticket, it may mean the citation was not filed with the court. There are several possible reasons, such as:

- The ticket was recently issued and has not yet been entered into the court's system. If the ticket was fairly recent, you may be advised to call again after a week or two has passed.
- Officers may decline to file tickets or wait to file them at a later date. Officers have 1 year to file the ticket, so it may still appear in the system in the future.

If the ticket is more than 30 days old and the client knows the respond-by date or mandatory appearance date, your client can go to the court to request a form from the clerk stating that the ticket is not in their system. This is useful proof that your client attempted to timely address their ticket, if it is later filed with the court.

B. Determining the Status of the Ticket

The status of the citation will determine your next steps. Depending on the specifics of your case, the ticket status may be:

Timely: The response deadline or arraignment date has not passed.

Failure to Appear (FTA): The first step a court is likely to take after a client misses the arraignment date or respond by deadline is issuing a FTA. This is not a judgment of guilt, and if no other steps have been taken the clerk will most likely be able to schedule an arraignment. In some jurisdictions, the client may need to go to the courthouse to request a walk-in arraignment.

Failure to Pay (FTP): If a client was found guilty and failed to pay the assessed fees, the court may move the citation to FTP status, resulting in the assessment of additional penalties.

Sent to Collections: If the court issued a FTA or FTP, it may send the ticket to a public or private collections agency. If it was sent to collection with a FTA status, the client may still schedule an arraignment. Depending on the jurisdiction, you may need to contact the collections agency to put an arraignment on the court's calendar.

Bench Warrant: If a client fails to comply with a court order, including failure to appear for court, the court can issue a bench warrant authorizing the arrest of the client. If your client has an older ticket, check with the court to determine if a bench warrant has been issued. If it has, you should schedule an appearance and request that the court lift the warrant. It is advisable that you appear on your client's behalf because appearing in court with an active warrant potentially exposes them to the risk of arrest.

Practice Tip!

If you find a warrant associated with your client for a separate misdemeanor or felony offense, consult with your supervisor about referring them to a local public defender to help resolve the warrant. Consider clearing the warrant before your client appears in traffic court, as they could be arrested on the underlying warrant when they appear.

C. Adjudicated Cases

In some cases, your client may already have been found guilty. If your client has been found guilty, you will not have an opportunity to contest the substance of the charge(s) against them. These situations include:

Partial Payment: If your client has already made payments towards resolving the citation, this is considered an admission of guilt, and you will be unable to contest the substance of the charges.

Trial in Absentia: If the case was set for trial and your client did not appear at trial but the prosecuting officer did, a failure to appear may lead to a judgment finding your client guilty. Once the client has agreed to appear, failing to appear for the trial may also result in a separate charge.

Failure to Pay (FTP): A court may issue a failure to pay notice if the client has been found guilty and did not pay the assessed fines and fees. This may lead to the assessment of additional penalties, so make sure you find out what consequences the court has or may impose on your client here.

In these situations, your representation will instead focus on contesting the client's ability to pay the associated fines and fees. (See IV.E. Ability to Pay)

What if the Arraignment Date Already Passed?

In many cases, the response deadline for your client's citation will have already passed. In those cases, our advice is to call the clerk first to determine the status of the ticket and whether the court took any additional actions. If a ticket was sent to collections, you may need to contact the collections agency before the arraignment can be calendared. However, once the case's arraignment is scheduled, it will continue through the same court process as other citations.

D. Setting an Arraignment

The first court appearance is the arraignment. Your client will be advised of their rights, they will be asked for their plea (guilty, not guilty, or no contest), and the court will schedule a trial date at some point in the future.

If your client never appeared in court for their ticket, your first goal is to schedule the initial arraignment. How you do this will depend both on the county you are in and the status of your client's ticket. This means you first need to identify:

- The arraignment date or response deadline and whether it already passed.
- If the deadline passed, what steps, if any, the court has taken with respect to the citation. (See Section III.B above.)

Citations, as well as the notices sent by the court, should provide either an arraignment date or deadline (sometimes labeled a "response deadline"). An arraignment date is the actual court date for the arraignment. A response deadline is the date by which the client needs to contact the court to either schedule their arraignment, request an extension, or pay the fine. If this date has not yet arrived, you should schedule or confirm the arraignment date. Depending on the county that issued the citation, there are a few ways to do this.

Calling the Clerk: Contacting a clerk at the relevant traffic court will allow you to ask about scheduling procedures and get your case on the court's calendar.

Online Reservation: Many counties offer the ability to schedule an arraignment date via an online portal. If you can find the client's citation in the court's database, this may be the most convenient option.

Walk-Ins: Some counties allow walk-in arrangements without pre-scheduling. However, this is often restricted to particular days, times, and courtrooms. Check with the clerk to confirm whether walk-ins are an option in your jurisdiction.

PRACTICE TIP! If you wish to challenge a ticket as facially deficient, you may do this by filing a demurrer before your client enters a plea. Once a plea is entered, the demurrer is waived. Pen. Code § 1004. See Section IV.C Procedural Strategies.

Pleading Not Guilty

If your client plans to contest the ticket, you should advise them to plead not guilty. If they do, the court will offer potential dates for trial and put your case on the trial calendar. You may be asked whether your client is willing to waive certain procedural rights. For example, the court may ask you to “waive time,” meaning the client waives their right to a speedy trial. This waiver allows the court to schedule a trial date further in the future for the convenience of the court, you, or your client. It is up to your client whether they wish to waive this right; you may advise them if it is strategically beneficial to waive the right or insist upon a speedy trial date.

Pleading Guilty or No Contest

If your client pleads guilty or no contest, they will be assessed fines and penalties and may have points put on their driver’s license for moving violations.

- Make sure your client is aware of the potential consequences (such as fines, license points, etc.) before choosing to plead guilty.
- Advise your client on the rights they are choosing to give up as part of pleading guilty.
- If a client has numerous tickets, you may be able to negotiate with the court to dismiss some tickets in exchange for pleading guilty to others.
- You may also still contest your client’s ability to pay the penalties. See Section IV.E Contesting Fines & Fees: Ability to Pay Petitions.

Failure to Appear

If you are appearing for a case with a Failure to Appear, you may face questions from the judge about why your client failed to appear, so be prepared to provide an explanation for the delay in responding to the citation. Additionally, if the FTA is related to a moving violation and the citation was issued prior to 2023, there may be a hold on your client’s driver’s license that will need to be lifted.

E. What to Expect at Trial

Attending the arraignment provides a useful preview of what to expect at a traffic court trial. Trials move quickly. They are much less formal than traditional criminal trials. The officer who issued the citation acts as the lead (often only) witness; often they act as the prosecutor as well. The trial will be held before a judge, not a jury. The defendant has no right to appointed counsel.

Before your case is called, you may want to speak to the officer who issued the ticket. Remember, the officer is often acting as the prosecutor, so think of this as an opportunity to negotiate. A few factors to consider:

- Is the officer willing to support dismissal of your client's ticket? Think about how you can quickly paint a sympathetic picture of your client for the officer.
- Does the officer actually remember the events related to the citation? If not, they may dismiss the ticket outright.
- Is the officer willing to negotiate a deal? For example, if dealing with a moving violation, the officer may be willing to change an infraction that puts two points on a driver's license to a one-point infraction.

When your case is called, the officer will first present the case against your client, explaining the circumstances that led to the citation from their perspective. The defendant or their attorney will then cross-examine the officer, before proceeding with presenting their own case.

While Section IV will explain specific defenses in more detail, the right to present one's case includes many of the same tools as a typical criminal charge. The defendant may:

- Request discovery¹¹
- Subpoena witnesses
- Make an opening statement
- Make relevant legal motions
- Examine witnesses
- Present documentary evidence
- Exercise their right to remain silent

As you prepare for trial, remember that these are tools at your disposal when defending your client, and consider whether any of them might be useful.

F. Commissioners, Judge Pro Tems, and Judges

Many cases are overseen by commissioners or judge pro tems, not appointed or elected judges. A commissioner is a court official who performs judicial duties, while a pro tem is an attorney appointed to temporarily serve as a judge. Because they are not judges, parties must stipulate to them hearing their matters. If a pro tem or commissioner is hearing your case and seems unsympathetic, you may decline to stipulate to that pro tem or commissioner and request a hearing before a judge. This must be done before the pro tem or commissioner hears the case.

Additionally, under Code of Civil Procedure section 170.6, you may disqualify a judge from hearing a case, often called a “peremptory challenge.” You may do one peremptory challenge for each case. Then the case will be assigned to a new judge.

G. Sentencing & Compliance

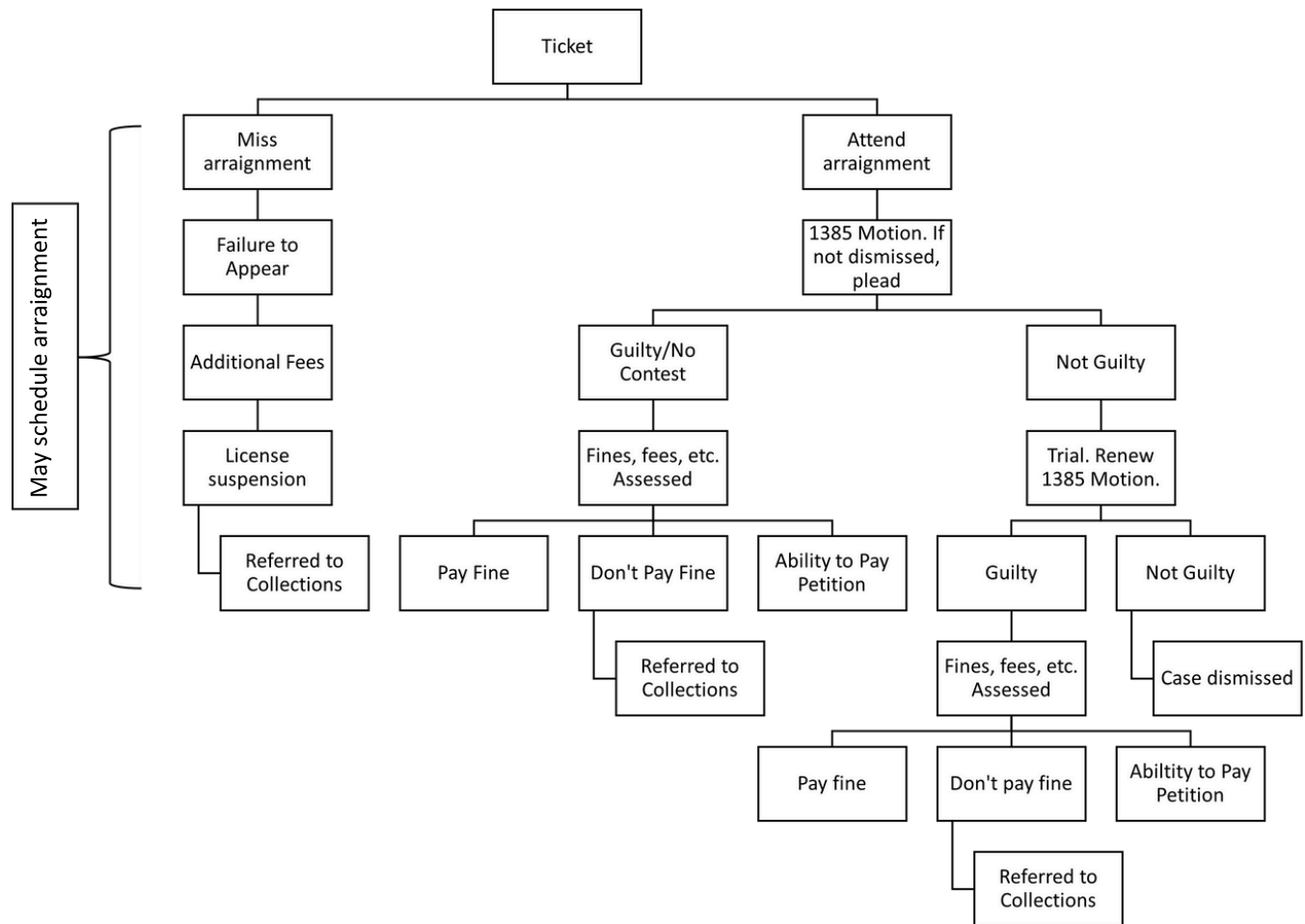
If your client is found guilty or pleads guilty, the court will impose a sentence. Usually, this means the fine from the original offense plus other fees. If you are working with unhoused clients, they probably do not have the resources to pay the fines and fees associated with the citation. If this is the case, you should file an Ability to Pay Petition, which asks the court to assess the client's ability to pay in order to reduce or eliminate the associated fines and fees. For more on Ability to Pay Petitions, see Section IV.E. Ability to Pay



The Venice Justice Committee combines legal representation with mutual aid and community care.
Photo Credit: Peggy Lee Kennedy. Used with permission.

H. Putting It All Together

The diagram below provides a high level overview of the different stages of the process, how they fit together, and what options you have at each point in your representation.



IV. Challenging Citations in Traffic Court

Strategies and defenses for quality-of-life infractions.

Once you've gone through an arraignment and scheduled a trial, there are several potential avenues for contesting your client's citation. Below are some of the options for defending your client, which are discussed in more detail in this section.

Dismissal in the Interest of Justice:

Penal Code § 1385 allows courts to dismiss charges "in the interest of justice."

Factual Elements: The client did not commit the alleged offense and/or the state cannot prove the case.

Procedural Strategies: The ticket is facially deficient, or another procedural factor requires the dismissal of the ticket.

Necessity Defense: The client's conduct violated the law but was necessary to prevent a greater harm.

Vagueness: The underlying ordinance is so unclear that a person cannot understand what conduct is prohibited.

Ability to Pay Petition: Requests to waive court fines and fees after a defendant pleads guilty or is convicted.



Photo Credit: "Courtroom" by karen_neoh is licensed under CC BY 2.0.

A. PC § 1385: Dismissal in the Interest of Justice

Under Penal Code section 1385, a court has broad discretion to dismiss charges “in the interest of justice in any situation where the Legislature has not clearly evidenced a contrary intent.” *People v. Williams* (1981) 30 Cal.3d 470, 482. The court’s discretion is broad, so advocates may raise any information about the client that a court may find sympathetic. It also provides a defense strategy, as it allows the judge to hear other factors about the defendant and the charged offense that are not relevant to the legal elements of the offense.

Requesting relief under § 1385 is a powerful opportunity for client-centered lawyering. Because the court is weighing your client’s specific circumstances, developing your argument means collaborating with your client to tell their story to the court. Clients can feel empowered by participating in their own defense and having their experiences formally presented to a judge.

§ 1385 Procedure

Under PC § 1385(a), a judge may dismiss “on motion of the court or upon the application of the prosecuting attorney.” This means the defense may not make a formal motion requesting dismissal under § 1385. Instead, the defendant invites the court to exercise this power, and the court must then consider the evidence proffered by the defendant. *People v. Carmony* (2004) 33 Cal.4th 367, 374 (quoting *Rockwell v. Superior Court* (1976) 18 Cal.3d 420, 441).

In practice, this request will look similar to other motions. While a request may be made orally, you will likely submit a written request to the court along with supporting documents about your client and the reasons to dismiss the charges.

The request may be made any time, whether before, during, or after trial. If you plan to make a request for dismissal, the best practice is to come to the arraignment prepared to make the request and argue it before the judge.

PRACTICE TIP! You may renew your request for dismissal at each stage; the arraignment is not your last chance. If your initial request is denied, consider who will hear the case at the next time appearance. It may not be the same judge who heard the arraignment. Renewing your request may give you another chance to dismiss the case before a more sympathetic judge.

The Interest of Justice

What does it mean for dismissal to be in the interest of justice? Courts commonly look to a few key factors, including the nature and circumstances of the defendant's current crimes, the defendant's prior convictions, and the particulars of the defendant's background, character, and prospects. *People v. Williams* (1997) 16 Cal.4th 153, 210. The court must do an individualized assessment of the defendant's circumstances. *People v. Orabuena* (2004) 116 Cal.App.4th 84, 99.

Advocates may present essentially any compelling information about the client that might “motivate a reasonable judge” to dismiss. *People v. Brown* (2023) 14 Cal.5th 530, 541. However, there are some limits to the judge's discretion. For example, dismissals under § 1385 for “judicial convenience, because of court congestion, to avoid the cost of incarceration, or simply because a defendant pleads guilty” are impermissible. *People v. Orabuena* 116 Cal.App.4th at 99.

Writing a § 1385 Request

The request for dismissal is structured similarly to a traditional motion or petition. It will usually include a description of your client and argument about why their particular case should be dismissed. It should be supported by evidence that accompanies the request. See below.

Writing a § 1385 request is an exercise in storytelling. As you get to know your client, think about what aspects of their background or their present activities might be persuasive. Some issues to consider in preparing to write the petition include:

Hardship: If you are working with unhoused clients, they have likely experienced significant hardships. This may include struggles with physical or mental health, violent or traumatic experiences, hardships related to jobs or housing, or other aspects of your client's story that help the court understand the mitigating factors surrounding your client's ticket.

Progress: This is the other side of the hardship coin. A persuasive way to frame the argument may be that your client is on the road to progress. Are they in interim housing, education, training, or receiving other services? Are they working or seeking employment? Are they in the process of obtaining a voucher or other housing placement? You may frame your client as on the road to a better life.

Impact of the Ticket: If your client is already struggling, or alternatively on a path to recovery, this will inform how you frame the impact of the citation and fine on your client. Will this disrupt their ability to work, learn, or find housing? Is attending court a significant hardship for your client? Think about concrete ways your client's life might be impacted beyond being saddled with an unaffordable fine.

Nature of the Offense: Consider how your client's background relates to the nature of the offense. If it is a quality-of-life offense, is there a compelling story about hardship and progress that makes the offense understandable? Consider the potential harm of the underlying offense, and how you can argue the detriment to the defendant matters more than that potential harm. You may wish to argue the underlying offense is fundamentally unjust or unjust as applied to your client.

Age of the Citation: If a citation is older, or from a time in your client's life they have now moved on from, this can provide a compelling reason for dismissal. If a client was previously unsheltered and is now in interim housing, for example, you can argue that a public nuisance charge related to living outside is no longer necessary. You may also argue punishing a person for a minor offense from several years prior serves little benefit to your client or society.

Supporting Evidence

Providing evidence to support your request for dismissal makes it more credible and compelling. Examples of evidence that might support your client's story include:

Written Declarations: A declaration from your client or someone in their life can support the story you tell in your § 1385 request. Writing a declaration offers another opportunity to tell a compelling story, so consider how you want to organize your story, what details you want to emphasize, and how to avoid bringing up questions you'd prefer not to be asked in court.

Practice Tip! Your client should not admit guilt in their declaration. The declaration is admissible evidence written under penalty of perjury. If the court denies the 1385 request, they can use the defendant's words against them if the case goes to trial.

Letters of Support: Think about people in your client's life who can speak to their character and positive qualities. If your client is working with a case manager and they have a positive relationship, ask your client if that case manager would provide a letter supporting dismissal. Employers and training providers may be useful supporters if they have good relationships with your client. Mental health providers may also provide letters showing your client's commitment to receiving services.

Practice Tip!

You may wish to offer to draft language for the support person. Talk to them first to explain the purpose of the letter and the types of statements that may be useful. Get a sense of what they want to say and offer to provide language for them to put on letterhead and sign.

Other Relevant Documents: Depending on the story you're telling, there may be other ways to make that story credible and compelling. If you are emphasizing your client's time in a program or job, provide evidence of their participation. If they've earned a certificate or degree, including a copy may help support your narrative. If your client is a veteran, include a copy of their DD-214 separation papers. *For any documents you submit, be sure to redact any sensitive personal information, such as Social Security numbers.*

Avoid Undermining Your Client's Underlying Case

When requesting a dismissal under § 1385, be careful that you are not undermining any other part of your defense. If you are planning to challenge a citation on substantive grounds, your story should not implicitly or explicitly admit to committing elements of the offense. Remember, even if you do not have any affirmative defenses to raise, the state still has the burden of proving its case. While not something to rely on, sometimes the state simply lacks the evidence to prove a case. Be cautious about admitting something that they may not ultimately be able to demonstrate in court.

For example, if your client is cited for having their tent up during prohibited hours, be careful about how you frame the impact of the citation on your client. If you strongly emphasize your client's reliance on their tent, the judge may ask a follow-up question about whether your client is continuing to violate the tents-down rule. This may undermine your credibility and persuasiveness of your narrative.

B. Factual Elements of a Case

If your case is not dismissed in the interest of justice at arraignment, you will need to prepare for your trial date. The first step is determining whether the state can prove your client violated the law.

Did your client actually commit the offense for which they were cited? While the answer may seem obvious, make sure that you understand the underlying charge and the specific events in question.

Know the specific offense cited. If you don't have the original ticket or it is illegible, get a copy either online or from the court clerk. See Section III.A Finding the Citation.

Know the elements that need to be proven for a conviction. Are there any you can contest directly? Are there any the state has insufficient evidence to prove? For example, some laws may require that your client have particular knowledge related to the charged offense or require the officer to testify to particular facts that they might not have been able to ascertain when they issued the citation.

Practice Tip!

Remember, the state has the burden to prove its case beyond a reasonable doubt. While this may be done through officer testimony, it is your job as a defense attorney to ensure the state meets its burden.

C. Procedural Strategies

Demurrer

A demurrer is a procedural vehicle used to challenge a facially deficient ticket. Pen. Code § 1004. The most common use for a demurrer is to allege that the facts stated on the ticket do not constitute a public offense, *id.* § 1004(b), (d), in that an element of the offense is missing. For example, an instrument charging burglary, which involves breaking and entering with the intent to commit a felony, must name the felony intended. See *People v. Nelson*, 68 Cal. 104, 107 (Cal. 1881).

A demurrer can be used to make other arguments that appear on the face of the pleading. Although these cases will be rare, a demurrer can be used to:

- Raise an affirmative defense or other legal bar to prosecution that appears on the face of the ticket. Pen. Code § 1004(e);
- Raise a constitutional challenge to the underlying statute. *Id.* § 1004(f);

Note: The constitutional issue must appear on the face of the statute, like when the language of the statute is unconstitutionally vague on its face. A demurrer can't be used to challenge the constitutionality of the application of the statute to the defendant's particular case. See *Tobe v. City of Santa Ana*, 9 Cal.4th 1069, 1090 (Cal. 1995);

- Argue the court has no jurisdiction over the offense. Pen. Code § 1004(a);
- Argue the charging instrument doesn't substantially conform to the requirements of the Penal Code, because it omits the title of the action, the name of the parties, or the name of the court. *Id.* § 1004(b), 950, 952; and
- Argue the charging instrument improperly joins more than one charge. *Id.* § 1004(c); see also *id.* § 954.

A demurrer must be made prior to the entry of a plea, and it is waived if it isn't raised. *Id.* § 1004. However, it may be worth bringing up a facially deficient ticket with the citing officer at trial. If the officer cannot remember issuing the ticket or the facts underlying the ticket, they may be willing to request a dismissal.

A court may also dismiss a citation issued by an automated traffic enforcement system if the notice to appear or other form has been materially altered. Veh. Code. § 40518(d).

Motion to Dismiss for Failure to Prosecute

A motion to dismiss for failure to prosecute may be made when the citing officer does not appear at trial. It is usually made orally. The California Judge's Benchguide encourages judges to dismiss the case. California Judges Benchguide 82: Traffic Court Proceedings (Cal. CJER) § 82.3(24). Occasionally, they may proceed by examining the defendant and witnesses themselves. Make sure you have advised your client of their Fifth Amendment right to remain silent in case the judge decides to do so.

Section 41500 Motion

A motion to dismiss under section 41500 of the California Vehicle Code may be made when the defendant entered a county jail, juvenile detention, or Department of Corrections and Rehabilitation custody during the pendency of a non-felony case originating under the Vehicle Code. Veh. Code § 41500(a). The state also cannot suspend, revoke, refuse to issue, or refuse to renew a driver's license based on a pending offense that occurred before the affected person entered custody. § 41500(b).

This defense does not apply if the Code requires immediate revocation or suspension of someone's driving privilege, or if the offense was committed while the defendant was temporarily released on parole or post-release community supervision. *Id.* § 41500(c), (d).

Racial Justice Act

Racial bias on the part of the arresting officer may provide a defense under the Racial Justice Act, which bars prosecution based on race, ethnicity, or national origin. Stats. 2020, ch. 317, § 1. The act allows the defendant to pursue additional discovery related to the officer's bias. Pen. Code § 745(d). The threshold for discovery is low, requiring only that a defendant "advance a plausible factual foundation, based on specific facts, that a violation of the Racial Justice Act 'could or might have occurred' in his case." *Young v. The Superior Court*, 79 Cal.App.5th 138, 159 (Cal. Ct. App. 2022). Consult your supervisor for more information if you plan to pursue this defense.

D. Additional Affirmative Defenses

Necessity

Sometimes, there are circumstances that make it necessary to break the law to prevent a greater harm. In these cases, courts may find a client not guilty based on the necessity defense.

The necessity defense is essentially a public policy argument stating that what the defendant did was necessary to prevent greater harm to themselves or another person. See *People v. Garziano*, 230 Cal. App. 3d 241, 242 (Cal. 1991); *People v. Heath*, 207 Cal. App. 3d 892, 901 (Cal. 1989). It is a **narrow and fact-dependent** defense to tickets for camping, sleeping, or engaging in other life-sustaining conduct in public. In its recent *Grants Pass* decision striking down a legal protection against a city's anti-camping law, the Supreme Court noted that necessity may provide a defense against similar laws in some cases. *City of Grants Pass v. Johnson*, 144 S. Ct. 2202, 2204 (2024).

To prove the defense, the defendant must establish all the following elements by a preponderance of the evidence:

- They acted in an emergency to **prevent a significant bodily harm or evil** to themselves or another person;
- They had **no adequate legal alternative**;
- Their acts **did not create a greater danger** than the one avoided;
- When they acted, they **actually believed the act was necessary** to prevent the threatened harm or evil;
- A **reasonable person** would also have believed that the act was necessary under the circumstances;
- They **did not substantially contribute** to the emergency.

CALCRIM No. 3403; see *also* in *re Eichorn*, 69 Cal. App. 4th 382, 389 (1998).

Courts usually determine the applicability of the necessity defense by examining whether the bodily harm was significant and whether there were adequate legal alternatives; the other elements have received less attention in the case law as discussed below. But don't forget to prove every element by a preponderance of the evidence.

Practice Tip! Consider when and how to bring a necessity defense if you have other strong legal or factual defenses to the underlying claim. You'll need to assess how to prove the elements of the necessity defense while not admitting to the elements of the charged offense, which may at times be impossible.

Significant Bodily Harm or Evil

Courts have suggested that sleep deprivation and similar harms resulting from economic necessity (e.g., being unhoused or unable to afford shelter) can be significant bodily harms. Ideally, the harm should be imminent and serious, rather than speculative or just uncomfortable, as demonstrated in the case law.

- Sleep deprivation caused by compliance with public camping and sleeping bans can be a serious bodily harm. Eichorn, 69 Cal. App. 4th at 389 (1998); People ex rel. Burns v. Wood, 103 Cal. App. 5th 700, 715 (2024);
- Bodily harm from exposure to cold weather and the elements could qualify, but it should be cold enough to create harm and not just discomfort. People v. Thomas, No. G053238, 2017 WL 4249193, at *4 (Cal. Ct. App. Sept. 26, 2017);
- Hunger must also rise above mere discomfort. People v. Carter, No. E049455, 2010 Cal. App. Unpub. LEXIS 10203, at *5 (Dec. 23, 2010).

Adequate Legal Alternative

- In camping and sleeping cases, show that shelter was unavailable (i.e. all shelters in the area were full) and/or the defendant tried to access shelter and alternative sleeping arrangements and was unable to. Eichorn, 69 Cal. App. 4th 382, 389 (1998); People ex rel. Burns v. Wood, 103 Cal. App. 5th 700, 715 (2024);
- A shelter may be “unavailable” for reasons besides literal unavailability, like if the defendant needed to stay near their medical care. Burns, 103 Cal. App. 5th at 715;
- Leaving the jurisdiction and camping on private property, which could constitute trespass, are not adequate legal alternatives to sleeping in public. Eichorn, 69 Cal. App. 4th at 390 n.4;
- Courts seem to be stricter on this element when the offense at issue is more “serious,” like crimes of theft. e.g. Carter, 2010 Cal. App. Unpub. at *5 .

Contribution to the Emergency

There is less case law about this element, but plan to push back against arguments that your client substantially contributed to the emergency by being unhoused or unsheltered, or that they are unhoused or unsheltered because of their choices. Economic necessity qualifies for the defense. CALCRIM No. 3403.

Vagueness

Criminal laws that are too vague to provide fair notice of what conduct is prohibited violate the Due Process Clause of the Fifth Amendment. The Supreme Court has held that a criminal law is unconstitutionally vague if it:

- Fails to provide fair notice of what is prohibited to a person of ordinary intelligence; or
- Is “so standardless that it authorizes or encourages seriously discriminatory enforcement.”

U.S. v. Williams (2008) 553 U.S. 285, 304.

If a law does not have clear standards that give fair notice to an individual that their conduct is criminal, it is unconstitutional to enforce it. Previous statutes that courts have found unconstitutionally vague include:

- A loitering law in Chicago that prohibited remaining “in any one place with no apparent purpose,” which the court found was too vague to give notice and created arbitrary enforcement. *City of Chicago v. Morales* (1999) 527 U.S. 41, 58;
- A Los Angeles law banning individuals from using cars as living quarters, which did not define “living quarters” or specify which activities were prohibited. *Desertrain v. City of Los Angeles* (9th Cir. 2014) 754 F.3d 1147, 1155-56.

With that said, courts are often reluctant to find laws unconstitutionally vague. Courts defer to local authorities so long as the language is sufficiently clear that the charged conduct is banned, even in cases where a law may be vague with respect to other types of conduct. *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.* (1982) 455 U.S. 489, 497.

While it is unlikely to arise in traffic court, read the statute under which your client is charged. Especially as many local legislatures rush to enact anti-homeless laws, there is a chance that these laws are poorly designed or drafted. Even if this does not rise to the level of a constitutional challenge, poor wording may provide unexpected avenues for defending your client.

E. Contesting Fines & Fees: Ability to Pay Petition

If your client is convicted, they will likely face a fine for the infraction, as well as additional fees ordered by the court. An ability-to-pay petition is a way to reduce these fines and fees based on financial hardship.

Your client has the right to request an ability-to-pay determination during the adjudication of guilt or at any time after the court has entered a conviction and fine, as long as the fine remains unpaid. This includes cases where FTP (Failure to Pay) status was entered or the case was referred to collections. Veh. Code § 42003(c). Your client may request an ability-to-pay determination whenever a change of circumstances affects their ability to make the payment, even if it's years after the initial conviction or their request was previously denied. *Id.* § 42003(e).

An ability-to-pay petition may be submitted through a local court form or web portal. Your client has the right to a hearing before the court or a county officer, where they can be heard, present evidence, and receive a written statement of the findings. Cal. Rules of Court, rule 4.335. Adjudicators are instructed to consider:

- Present financial position;
- Future financial position, up to six months from the date of the hearing;
- Likelihood that the defendant can obtain employment; and
- Any other factors bearing on financial capability. Veh. Code § 42003(d).

Proof of Financial Hardship

The petition should include a declaration that explains your client's circumstances and a narrative about their inability to pay. Include documentation from your client to support the fact that they literally do not have the means to pay the fine, such as:

- Proof of receipt of public benefits, like CalWORKs, General Relief, CalFresh, etc.;
- Balances on any bank accounts, Venmo, PayPal, etc.;
- Pay stubs if your client earns an income, or proof of disability / retirement income, such as Social Security, SSI, pension, etc.;
- Statements for outstanding financial obligations or fixed monthly payments, like car payments, child support, or medical debt;
- Explanation of work or family obligations or a disability that might keep your client from completing community service.

Forms of Relief

You should specify what specific relief your client is requesting, whether that is a dismissal of the fine or a payment plan. Make sure that whatever you request from the court is workable for your client, and that they understand their responsibilities to remain in compliance with their sentence.

Based on their determination of your client's ability-to-pay, the court may:

- Order a payment plan;
- Reduce the fine;
- Vacate the fine entirely;
- Order community service instead of a fine; or
- Offer any other alternative disposition, such as referring your client to programs specifically for unhoused people. Cal. Rules of Court, rule 4.335. For more on programs like this, see Section V. Alternative Programs for Unhoused People.

Community Service

Some courts may offer your client community service in exchange for reducing their fines. Before your client accepts this type of offer, you should thoroughly discuss with them what it will take to complete the necessary hours. For example:

- Does your client have the money to sign up for community service? Paradoxically, many approved programs charge a fee.
 - Does your client have a disability that will prevent them from completing community service?
 - Is your client able to travel to the community service site? If your client does not have a car, is it accessible by public transportation?
 - Will this interfere with other obligations your client has, such as housing navigation, medical care, etc.?
 - Does your client have a way to keep their property secure if they leave it unattended for several hours? For example, do they have a friend who can help prevent their property from being swept?
-

V. Alternative Programs for Unhoused People

Non-traditional ways for unhoused people to resolve their infractions through alternative courts and citation resolution programs.

Depending on which county you are in, there may be specific programs for unhoused or low-income people dealing with infractions. Broadly, these are divided into two categories: alternative courts and citation resolution/clearance programs.

Alternative programs may not always be the best option for your client. Some programs are helpful for clients, while others may be downright harmful. Counsel your client on the benefits and drawbacks of these types of programs, given their circumstances. Some factors to consider:

- Depending on your client's case, it may be easier to get a ticket fully dismissed by going to traffic court and defending the ticket.
- Alternative programs can place specific and onerous community service and/or other requirements on clients, which can lead to serious consequences if not met. An ability-to-pay petition may be a better alternative than the program.
- Alternative programs can create problems for clients with other warrants. If your client is required to appear, they may put themselves at risk of arrest.

Practice Tip!

Some alternative programs allow defendants to participate even after they are convicted of the infraction. It may be beneficial to first represent your client in traffic court and refer them to the alternative program only if they are found guilty.

Citation Resolution/Clearance Programs

Many counties have programs aimed at resolving fines and fees for unhoused people by requiring participation in services, like case management, housing navigation, or job training. This may be limited based on the age or status of the citation. For example, the CONNECT Program in San Francisco and the HEART Program in Los Angeles both clear citations, regardless of age. In contrast, San Diego County's Clean Plates Program only clears older citations.

When counseling your client about these types of programs, you may wish to consider their interest in and ability to engage in services. For example, if your client is already engaged with service providers, they may be able to use time spent in services as a path toward clearing a citation. If they are unlikely to complete the requirements of the program, non-compliance may subject them to consequences.

Before recommending a program like this, make sure you understand the requirements and relevant facts about your client's current circumstances (living arrangements, participation in services, etc.) so you can advise them appropriately about the benefits and risks.

Alternative Courts

Alternative courts adjudicate cases outside the traditional courtroom setting. This may be as simple as holding court sessions at a community center, or it may involve a setting that seeks to address citations while also helping people connect to homelessness services agencies. Examples of courts that attempt to combine traffic court and services include:

- Orange County's Collaborative Courts, including its Homeless Outreach Court, which seeks to address quality-of-life and other infractions while helping connect people to services.
- San Diego County's Homeless Court Program, the oldest such program in the country, which puts clients on a system of graduated probation based on their participation in services.

If you plan to represent a client in court as their attorney, it is unlikely that you would use of these programs. If you are advising clients who intend to represent themselves, some may prefer a more informal setting designed for pro se litigants.

Conclusion

Legal representation can defend the rights of an individual and simultaneously support organizing for systemic change.

Homelessness can create numerous legal challenges for those experiencing it, especially at a time when the Supreme Court has reinvigorated the enforcement of quality-of-life offenses. As an advocate, you have a chance to slow down the fast-moving and punitive process of traffic court, and to help extract your client from a web of deadlines, fines, and fees.

It's important to remember that these are not just individual experiences, but systemic issues. The time you spend defending your clients is valuable, but ultimately the solutions to the larger issue will not be found in traffic court. This is why many legal clinics function in coordination with community organizations and mutual aid projects, pooling resources to connect client representation to bigger-picture advocacy. We hope you will bring your experiences working with unhoused clients at traffic court to advocacy for a more just system that prioritizes housing and services over punishment.

We encourage you to pursue further reading on ways to center the lived expertise of your clients, work effectively with housing justice movement organizers, and ensure that legal advocacy is not siloed from broader community organizing. To this end, we recommend Western Regional Advocacy Project's (WRAP) House Keys Not Sweeps Legal Defense Clinics General Operations Manual, available on its website, wraphome.org/ldc.



Community members protest a criminalization ordinance at a Los Angeles City Council meeting. Photo Credit: Mike Dickerson. Used with permission.

Additional Resources

Supplemental readings and resources that are relevant to the topics covered in this manual.

Procedures and Logistics of Traffic Court:

California Judges Bench Guide 82, Traffic Court Proceedings, 2017, <http://www2.courtinfo.ca.gov/protem/pubs/bg82.pdf>.

Trauma-Informed Lawyering Overview:

Eric W. Hughes, Understanding Trauma-Informed Legal Services: A Compassionate Approach to Law Practice, Volunteer Lawyers for Justice (Jan. 31, 2024), <https://www.vljinj.org/pro-bono-blog/understanding-trauma-informed-legal-services>.

Racism and Trauma-Informed Lawyering:

Shriver Center on Poverty Law, An Antiracist Approach to Trauma-Informed Lawyering, June 29, 2021, <https://www.povertylaw.org/article/trauma-informed-lawyering/>.

Quality-of-Life Crimes and Other Laws that Criminalize Homelessness:

National Homelessness Law Center, Housekeys Not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities, 2019, <https://homelesslaw.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>.

State Laws Criminalizing Homelessness:

National Homelessness Law Center, Housing Not Handcuffs: 2021 State Supplement, 2021, <https://homelesslaw.org/wp-content/uploads/2022/02/2021-HNH-State-Crim-Supplement.pdf>.

Litigation Challenging the Criminalization of Homelessness:

National Homelessness Law Center, Housing Not Handcuffs: A Litigation Manual, 2019, <https://homelesslaw.org/wp-content/uploads/2018/10/Housing-Not-Handcuffs-Litigation-Manual.pdf>.

End Notes

1. Sara Rankin, *Civilly Criminalizing Homelessness*, Harv. C.R.-C.L. L. Rev. 56, 367 (2021).
2. Chris Herring, *Complaint-Oriented Policing: Regulating Homelessness in Public Space*, Am. Sociological Rev. 84(5), 769 (2019).
3. Sara Rankin, *Punishing Homelessness*, 22 New Crim. L. Rev. 99 (2019).
4. Sara Rankin, *Hiding Homelessness: The Transcarceration of Homelessness*, 109 Cal. L. Rev. 559 (2021).
5. National Homelessness Law Center, *Housekeys Not Handcuffs 2019*, <https://homelesslaw.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>.
6. Fresno County Ord. No. 24-013, § 1, 8-20-2024.
7. San Joaquin County Ord. No. 4655, 9-24-2024.
8. Taryn Luna, *Newsom Threatens to take Money from Counties that don't Reduce Homelessness*, L.A. TIMES, (Aug. 8, 2024), <https://www.latimes.com/california/story/2024-08-08/gavin-newsom-homelessness-fight-california-counties>.
9. National Alliance to End Homelessness, *Criminalizing Homelessness Worsens the Crisis, Research Shows*, https://endhomelessness.org/wp-content/uploads/2025/02/CriminalizingWorsensTheCrisis_NAEH_2-4-25.pdf.
10. For more information about requesting accommodations with the court, see Judicial Council of California, *For Persons with Disabilities Requesting Accommodations: Questions and Answers about Rule of Court 1.100 for Court Users* (2007), <https://courts.ca.gov/sites/default/files/courts/default/2024-12/access-fairness-qanda-for-persons-with-disabilities.pdf>.
11. Defendants are entitled to discovery under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963). Requesting discovery in advance of trial is fairly uncommon in traffic court cases, but some public interest legal advocates request documents and evidence in advance in the majority of the cases they defend, as it may reveal deficiencies in the prosecutor's evidence. Other legal advocates request evidence in person from the prosecuting officer on the trial date.