



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-030

For business meeting on April 25, 2025

Title

Rules and Forms: Miscellaneous Technical
Changes to Traffic Form

Agenda Item Type

Action Required

Effective Date

July 1, 2025

Rules, Forms, Standards, or Statutes Affected

Revise form TR-235

Date of Report

April 7, 2025

Recommended by

Traffic Advisory Committee
Hon. Maria Lucy Armendariz, Chair

Contact

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Executive Summary

The Traffic Advisory Committee recommends revising *Officer's Declaration* (form TR-235) to incorporate a change resulting from legislation and to correct and update grammar and stylistic conventions on the form. These changes are technical, minor, and nonsubstantive. The committee recommends making the necessary corrections to conform to statute and to ensure clarity for court users, clerks, and judicial officers.

Recommendation

The Traffic Advisory Committee recommends that the Judicial Council, effective July 1, 2025, revise *Officer's Declaration* (form TR-235) to conform to a change in law, and to correct miscellaneous grammatical errors and outdated stylistic conventions on the form.

Relevant Previous Council Action

Although the Judicial Council has acted on this form previously, this proposal recommends only minor corrections unrelated to any prior action.

Analysis/Rationale

Vehicle Code section 40902 authorizes trial by written declaration, a procedure that allows a defendant to contest a citation in writing, without having to make a personal court appearance. Trials by written declaration are available in cases involving infraction violations of the Vehicle Code or violations of local ordinances adopted under the Vehicle Code. (Veh. Code, § 40902(a)(1).) California Rules of Court, rule 4.210 establishes minimum procedural requirements for this type of trial by written declaration. This rule requires a clerk, upon receipt of a defendant's request for trial by written declaration, to notify the arresting officer and to send specified forms to the officer. One of these forms is form TR-235. (See rule 4.210(b)(5).)

Form TR-235 includes items about an engineering and traffic survey (ETS) for the officer to complete. An ETS is a report prepared by civil engineers for a stretch of road or several roads and is "a survey of highway and traffic conditions in accordance with methods determined by the Department of Transportation for use by state and local authorities." (Veh. Code, § 627(a).) There may be several ETSs commissioned by different municipalities or agencies in each court jurisdiction. An ETS for speed limits must be conducted at least once every 5, 7, or 14 years, depending on different criteria. (Veh. Code, § 40802.) An ETS can sometimes be necessary to prove a foundational element in an infraction case involving speeding. Vehicle Code section 40802 was amended to extend the validity of an ETS from 10 years to 14 years.¹ However, item 6 on form TR-235 reflects the previous validity length of 10 years.

The change to this form is necessary to conform to a statutory change and correct references. There are also numerous grammar and stylistic conventions on the form that should be updated. The committee recommends changing "ten (10)" to "fourteen (14)" in item 6, as well as the following technical changes to the form:

- Changing "vs." to "v." in the caption;
- Changing the word "pursuant" to "under" in the instructions;
- Changing the word "shall" to "must" in the instructions;
- Changing the word "on-duty" to "on duty" and removing the word "the" from "as required by the Vehicle Code section 40800" in item 1a;
- Replacing "offense(s)," "statement(s)," "diagrams(s)," "Method(s)," and "Diagram(s)" with "offenses," "statements," "diagrams," "Methods," and "Diagrams" in items 1b, 1c, 1g, 2, and 9, respectively, and correcting the corresponding verb tense as appropriate;

¹ Specifically, Vehicle Code section 40802(c)(2)(B)(i)(II) now states: "If an engineering and traffic survey was conducted more than seven years prior to the date of the alleged violation, and a registered engineer evaluates the section of the highway and determines that no significant changes in roadway or traffic conditions have occurred, including, but not limited to, changes in adjoining property or land use, roadway width, or traffic volume, 14 years." (Assem. Bill 43; Stats. 2021, ch. 690.)

- Changing “Vehicle Code section 40802, subdivision (a)(2)” to “Vehicle Code section 40802(a)(2)” in item 3;
- Adding “(2)” in item 5d;
- Changing “which” to “that” in item 6b; and
- Adding the words “of declarant” to the signature line.

Policy implications

This proposal promotes accuracy of forms and their consistency with statutes.

Comments

Public comments were not solicited for this proposal because the recommendations are within the Judicial Council’s purview to approve without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives considered

Last year, the Traffic Advisory Committee considered revisions to form TR-235 that included the current recommendation, along with substantive changes. However, after circulating the proposal for public comment in the spring, the committee decided to withdraw it to consider additional changes to improve the form’s overall clarity and to conform with the trial-by-declaration process currently being implemented in MyCitations. Only two courts are currently live with the trial-by-declaration feature in MyCitations, and those courts just went live in January 2025. Because of resource allocation priorities for 2025, the committee will reconsider possible redesign objectives in 2026. Recommending the current minor revisions to the form at this time appears to be the better option, so that courts and court users do not continue to rely on inaccurate forms for an unforeseen amount of time.

Fiscal and Operational Impacts

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of the form recommended for revision. Because the proposed changes are minor, case management systems are unlikely to need updating to implement the changes.

Attachments and Links

1. Form TR-235, at pages 4–5

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: TELEPHONE:		FOR COURT USE ONLY 02/14/2025 DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:		
OFFICER'S DECLARATION (Trial by Written Declaration—Vehicle Code, § 40902)		
RETURN DATE:	ARRESTING/CITING OFFICER NAME/ID NO.:	CITATION NUMBER/DATE ISSUED:
AGENCY NAME:	OFFICE (IF ANY):	CASE NUMBER:

INSTRUCTIONS: The defendant in the case listed above has opted for trial by written declaration **under** Vehicle Code section 40902. The officer named above **must** check all statements that apply, date, sign, and complete and return this form to the court named above by the return date.

1. **OFFICER'S DECLARATION:** Except as expressly stated below, I have personal knowledge of the facts stated herein. The events occurred in the County of *(specify)*: _____ at about the date, time, and location stated in the citation.
 - a. ☐ At the time of the citation I was a peace officer **on duty** ☐ for the exclusive or main purpose of traffic enforcement ☐ not for the exclusive or main purpose of traffic enforcement, and I ☐ was ☐ was not wearing a uniform as required by Vehicle Code section 40800. Any vehicle used by me complied with Vehicle Code section 40800.
 - b. ☐ The offenses were not committed in my presence.
 - c. ☐ Any statements made by the defendant were voluntary, recorded ☐ verbatim ☐ not verbatim and are reasonably complete and accurate in substance.
 - d. ☐ Safety is an element of the violation alleged. In my opinion, the defendant's operation of the vehicle was unsafe.
 - e. ☐ Any equipment used by me to gather evidence in support of this violation was properly maintained, in good working order, and I have been trained in its use.
 - f. ☐ Any traffic sign, signal, or device mentioned was official and properly located, maintained, in good working order, and clearly visible to a driver of a vehicle controlled, governed, or affected by such sign, signal, or device.
 - g. ☐ Any diagrams submitted are not exact or to scale, but are reasonably complete, accurate, and fairly depicts the location, situation, and events described.
 - h. ☐ Speed supported by the patrol vehicle's speedometer was a significant factor. Pursuant to department policy, the patrol vehicle used in connection with this citation was officially calibrated on *(date)*: _____
The result was *(specify)*: _____
The calibration was considered by me in determining defendant's speed.
 - i. ☐ Defendant was identified by Driver's License ☐ or other *(specify)*: _____
2. **THE METHODS USED TO DETERMINE THE SPEED OF THE INVOLVED VEHICLE WAS/WERE:**
 - a. ☐ Odometer
 - b. ☐ Visual estimation
 - c. ☐ Pacing
 - d. ☐ Radar (see items 4, 5, 6, below)
 - e. ☐ Laser
 - f. ☐ Aircraft
 - g. ☐ Other *(specify)*: _____
3. ☐ Engineering and traffic survey (ETS) not required per Vehicle Code section **40802(a)(2)**.
4. ☐ ETS completed within five (5) years prior to date of alleged violation.
 - a. ☐ ETS attached.
 - b. ☐ ETS on file with the court.

(Continued on reverse)

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PEOPLE v. DEFENDANT (Name):	CASE NUMBER:
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5. ☐ ETS completed within five (5) and seven (7) years prior to date of alleged violation.
- a. ☐ ETS attached.
- b. ☐ ETS on file with the court.
- c. ☐ Arresting/citing officer has successfully completed a radar operator course of not less than 24 hours approved and certified by the Commission on Peace Officer Standards and Training (POST).
- d. ☐ Laser or other electronic device was used to measure speed. Arresting/citing officer successfully completed an additional training course of not less than two (2) hours approved and certified by POST.
- e. ☐ The speed measuring device used to measure the speed of defendant (Serial No: _____) meets or exceeds the minimum operational standards of the National Highway Traffic Safety Administration (NHTSA) and was last calibrated on (date): _____ by an independent certified laser/radar repair and testing/calibration facility.
- f. ☐ Equipment accuracy check conducted on (date): _____ at (time): _____ and again on (date): _____ at (time): _____
6. ☐ ETS completed within seven (7) and fourteen (14) years prior to date of alleged violation.
- a. ☐ A registered engineer has evaluated the section of the highway in question and has determined that no significant changes in roadway or traffic conditions have occurred.
- b. ☐ All of the elements marked under item 5, above, that are applicable.

7. **FACTS AND CIRCUMSTANCES** (type or print only. State what happened):

☐ Continued on attachment.

8. **OTHER EVIDENCE AND STATEMENTS** (Explain any other evidence and statements):

☐ Continued on attachment.

9. **DIAGRAMS** (specify):

☐ Attached.

10. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____	
(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)

ID Number: _____

Agency NCIC Number: _____