



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-142*

For business meeting on September 20, 2024

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**Title**

Traffic: Mandatory Reminder Notices—  
Infraction Cases

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Date of Report**

August 22, 2024

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 4.107

**Contact**

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**Recommended by**

Traffic Advisory Committee

Hon. Maria Lucy Armendariz, Chair

### Executive Summary

The Traffic Advisory Committee recommends amending a rule of court to clarify the procedures for sending infraction reminder notices. The committee also recommends adding an exception to the mandatory notice procedures when (1) the defendant does not have a valid physical mailing address or (2) the court does not have the necessary information (a litigant's email address or mobile number) or the technological capability to send a notice electronically. Additionally, the committee recommends amendments to the rule to improve readability and to comply with current law.

### Recommendation

The Traffic Advisory Committee recommends that the Judicial Council, effective January 1, 2025, amend California Rules of Court, rule 4.107 to:

- Specify that the rule applies to all infractions, not just infractions under the Vehicle Code;
- Add an exception to the infraction reminder notice requirement when a defendant does not have a valid physical mailing address or when electronic notice is not feasible;
- Consolidate procedures in subdivision (b) of the rule.
- Change the civil assessment amount from \$300 to \$100; and

- Eliminate outdated consequences for failure to appear or pay.

The proposed amended rule is attached at pages 5–6.

## Relevant Previous Council Action

In December 2016, the Judicial Council adopted California Rules of Court, rule 4.107, effective January 1, 2017. This rule was developed by the Traffic Advisory Committee and the Criminal Law Advisory Committee—in consultation with the Advisory Committee on Providing Access and Fairness—as part of a directive from the Judicial Council to provide new procedural rules for traffic and other criminal infraction cases in order to promote access to justice.<sup>1</sup>

## Analysis/Rationale

Rule 4.107 requires courts to send reminder notices, either by regular mail or electronically through email or text, that inform defendants how to resolve their traffic cases.<sup>2</sup> The rule also requires that the notice set forth the potential consequences for failure to appear or failure to pay the amount owed. The rule does not address how a court should proceed when a litigant has failed to provide a valid physical mailing address, which occurs most often with persons who are experiencing homelessness.

A stakeholder from a large court identified a workload issue with the rule’s reminder notice requirement when the court does not have a valid physical mailing address for the person cited. In response to this concern, the committee recommends adding a new paragraph (3) to subdivision (a) that relieves the court of sending a reminder notice if the defendant has not provided a valid mailing address or if the court does not have the necessary information or the technological capability to send the notice electronically.

In addition to the issue of mailing addresses, the committee noted that the current rule does not specify whether it applies to all infractions or only to Vehicle Code infractions.<sup>3</sup> The title of the rule refers to “traffic procedures.” However, “traffic,” as used in this context, is a nonspecific term and can be interpreted to mean only Vehicle Code infractions, or more broadly, to mean all infractions. The committee understands that most courts have interpreted rule 4.107 to apply to

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<sup>1</sup> See Judicial Council of Cal., Advisory Com. Rep., *Traffic and Criminal Procedure: Infraction Procedures Regarding Bail, Fines, Fees, and Assessments; Mandatory Courtesy Notices; and Ability-to-Pay Determinations* (Dec. 1, 2016), <https://jcc.legistar.com/View.ashx?M=F&ID=4817182&GUID=D0F79B3B-0A7E-40FC-9F2A-C79D7B4F9024>.

<sup>2</sup> Prior to this rule of court, most courts sent courtesy notices even in the absence of this requirement.

<sup>3</sup> The original invitation to comment and Judicial Council report for the adoption of rule 4.107 refers to “traffic defendants” without further clarification. (See invitation to comment (SP16-08), p. 1, [www.courts.ca.gov/documents/SP16-08.pdf](http://www.courts.ca.gov/documents/SP16-08.pdf); Judicial Council of Cal., Advisory Com. Rep., *Traffic and Criminal Procedure: Infraction Procedures Regarding Bail, Fines, Fees, and Assessments; Mandatory Courtesy Notices; and Ability-to-Pay Determinations* (Dec. 1, 2016), p. 2, <https://jcc.legistar.com/View.ashx?M=F&ID=4817182&GUID=D0F79B3B-0A7E-40FC-9F2A-C79D7B4F9024>.)

all infractions. The committee concluded that applying the rule to all infractions would ensure better access to justice.

Finally, the current rule contains references to the civil assessment amount<sup>4</sup> and consequences for failing to appear or pay<sup>5</sup> that are no longer accurate. As a result of recent statutory changes, the committee recommends revising the maximum civil assessment amount as well as removing references to driver's license suspensions.

### **Policy implications**

This proposal furthers the council's policy of ensuring access to justice for all litigants by ensuring litigants receive a reminder notice for all infractions, if possible. This proposal also addresses a workload concern in some courts surrounding a rule of court obligation to send a reminder notice when the court lacks the ability to send one.

### **Comments**

The proposal circulated for public comment between April 2 and May 3, 2024. The proposal received five comments. Three agreed with the proposal, one agreed with the proposal if modified, and one did not indicate a position. A chart of the full text of the comments and the committee's responses is attached at pages 7–11.

One commenter expressed concern that an exception to the notice requirement could adversely impact the “[c]onstitutional rights of the homeless population.” This commenter reasoned that if a citation is not filed in the court's system by the appear-by or respond-by date listed on the citation, the court would use the reminder notice to identify a new date and that a defendant can be subject to a trial in absentia or have the citation sent to collections if they fail to act by the new date listed in the reminder notice.

The committee is not providing an opinion about whether, when a citation is filed after the appear-by or respond-by date, a reminder notice amounts to sufficient notice to a litigant as a matter of law. However, the committee notes that only Vehicle Code violations are eligible for trials in absentia and, in general, citations based on Vehicle Code violations would likely reflect a mailing address associated with the vehicle's registration or a driver's license. The committee believes the problem presented by citations without addresses occurs more often with non-Vehicle Code infractions, predominantly for persons experiencing homelessness, where the address section merely states “transient.” Indeed, the stakeholder who raised the workload concern about invalid or nonexistent mailing addresses advised that the problem regarding undeliverable reminder notices is generally, although not always, related to non-Vehicle Code infractions. As a practical matter, if there is no valid mailing address, and electronic notice is not feasible, there is no possible way to send notice to the litigant about a new court date.

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<sup>4</sup> Assem. Bill 199 (Stats. 2022, ch. 57).

<sup>5</sup> Assem. Bill 2746 (Stats. 2022, ch. 800).

The Superior Court of Orange County, Family Law and Juvenile Divisions, questioned, “Does ‘valid mailing address’ ... include situations where the defendant’s address is unknown at the time the citation was being issued (e.g., transient), or is the intention only for circumstances where the court’s courtesy notice was mailed out and returned as undeliverable?” As stated above, the recommended amendment is intended to relieve courts of mailing a reminder notice when specified circumstances are present. That would include situations in which a citation lists “transient” in the address section and the litigant has not provided an address. Presumably if a reminder notice were returned as undeliverable, the court would have already mailed a reminder notice and would not need to rely on the proposed exception.

Based on the comments received, the committee did not recommend any changes to the proposal. Instead, the committee will consider amendments in the future if implementation concerns arise.

### **Alternatives considered**

The committee considered taking no action to clarify the rule’s application or to add an exception. The committee believes that most courts already apply this rule to all infractions and smaller courts may not experience a large impact on court operations from undeliverable reminder notices. However, the committee recognized that clarifying the rule’s application would be helpful and, further, that different courts, especially larger ones, may experience a significant impact on operations from undeliverable reminder notices.

### **Fiscal and Operational Impacts**

The proposal would impose the usual costs for courts to train staff and update their internal procedures. In particular, courts that have interpreted rule 4.107 to apply only to Vehicle Code infractions will need to change their operations to send reminder notices for all infractions. The Superior Court of Orange County addressed implementation issues, stating that while three months would not be an issue for their court, it could be insufficient for some courts. However, no comments were received from courts stating that three months would be insufficient in their court and no courts cited actual operational concerns in their courts. Additionally, relieving courts of the obligation to send undeliverable reminder notices should reduce costs.

### **Attachments and Links**

1. Cal. Rules of Court, rule 4.107, at pages 5–6
2. Chart of comments, at pages 7–11
3. Link A: Assem. Bill 199 (Stats. 2022, ch. 57),  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB199](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB199)
4. Link B: Assem. Bill 2746 (Stats. 2022, ch. 800),  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB2746](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2746)

Rule 4.107 of the California Rules of Court is amended, effective January 1, 2025, to read:

1 **Rule 4.107. Mandatory reminder notice—~~traffic procedures~~ infraction cases**

2  
3 **(a) Mandatory reminder notice for infractions**

- 4  
5 (1) Each court must send a reminder notice to the address shown on the *Notice to*  
6 *Appear*, ~~unless the defendant otherwise notifies the court of a different~~  
7 ~~address~~ or an alternate address of which the defendant notifies the court.  
8  
9 (2) The court may satisfy the requirement in ~~paragraph~~ (1) by sending the notice  
10 electronically, including by ~~e-mail~~ email or text message, to the defendant.  
11 By providing an electronic address or number to the court or to a law  
12 enforcement officer at the time of signing the promise to appear, a defendant  
13 consents to receiving the reminder notice electronically at that electronic  
14 address or number.  
15  
16 (3) If the court cannot comply with (1) because the defendant does not have a  
17 valid mailing address or with (2) because the court does not have the  
18 necessary information or the technological capability to send reminder  
19 notices electronically, the court need not send a reminder notice.  
20  
21 (4) The failure to receive a reminder notice does not relieve the defendant of the  
22 obligation to appear by the date stated in the *Notice to Appear*.  
23

24 **(b) Minimum information in reminder notice**

25  
26 In addition to information obtained from the *Notice to Appear*, the reminder notice  
27 must contain at least the following information:  
28

- 29 (1) An appearance date and location;  
30  
31 (2) Whether a court appearance is mandatory or optional;  
32  
33 (3) The total bail amount and payment options, including procedures for  
34 requesting installment plans, community service, and an ability-to-pay  
35 determination;  
36  
37 (4) The notice about traffic school required under Vehicle Code section 42007, if  
38 applicable;  
39  
40 (5) Notice that a traffic violator school will charge a fee in addition to the  
41 administrative fee charged by the court, if applicable;  
42

Rule 4.107 of the California Rules of Court is amended, effective January 1, 2025, to read:

- 1           (6) The potential consequences for failure to appear or pay, including a driver's  
2           license ~~hold or suspension~~, a civil assessment of up to \$300 \$100, a new  
3           charge for failure to appear, a warrant of arrest, or some combination of these  
4           consequences, if applicable;  
5
- 6           ~~(7) The potential consequences for failure to pay a fine, including a driver's~~  
7           ~~license hold or suspension, a civil assessment of up to \$300, a new charge for~~  
8           ~~failure to pay a fine, a warrant of arrest, or some combination of these~~  
9           ~~consequences, if applicable;~~  
10
- 11          ~~(8) The right to request an ability to pay determination;~~  
12
- 13          ~~(9) Notice of the option to pay bail through community service (if available) and~~  
14          ~~installment plans (if available);~~  
15
- 16          ~~(10)~~(7) Contact information for the court, including the court's website;  
17
- 18          ~~(11)~~(8) Information regarding trial by declaration, informal trial (if available),  
19          and telephone or website scheduling options (if available); and  
20
- 21          ~~(12)~~(9) Correction requirements and procedures for correctable violations.  
22  
23

**SPR24-33**

**Traffic: Mandatory Reminder Notices—Traffic Procedures** (Amend Cal. Rules of Court, rule 4.107)

All comments are verbatim unless indicated by an asterisk (\*).

|    | <b>Commenter</b>  | <b>Position</b> | <b>Comment</b>   | <b>Committee Response</b>  |
|----|---|-----------------|--|--|
| 1. | Hon. Janine Highiet, Commissioner Superior Court of Stanislaus County | AM              | <p>VC 40501 requires law enforcement to identify a respond-by date at least 21 days after the date of the alleged infraction. The backside of the Notice to Appear states the citation may take up to 14 days to show up in the court system. Rule 4.107(a)(4) states that a failure to receive a reminder notice does not relieve the defendant of the obligation to appear by the date stated in the Notice to Appear. Rule 4.210(b)(2) and (3) state a written request for trial by declaration must be received by the clerk’s “by the appearance date indicated on the Notice to Appear.” And Rule 4.106 identifies consequences for failing to appear or pay on “infraction offenses for which the defendant has received a notice to appear.”</p> <p>Some courts are backed up in processing otherwise timely-filed Notices to Appear. By the time the court can process the Notice to Appear, the appear-by or respond-by date has already passed. The current practice is to use the reminder notice to identify a new appear-by or respond-by date selected by the clerk’s office and mail the reminder notice to the defendant’s last known address. When the defendant fails to appear by the new appear-by or respond-by date identified in the reminder notice, the defendant may be subject to a trial by declaration in absentia or sent to collections for failing to appear/respond.</p> <p>The proposed changes state no reminder notice need be sent by the court if there is no valid</p> | <p>The committee appreciates this feedback. The committee is not commenting on whether reminder notices supply sufficient notice in all instances when courts have missed filing citations by the notice to appear date. The committee notes that only Vehicle Code violations are eligible for trials in absentia. In general, on citations for Vehicle Code violations, there is a valid mailing address provided because a defendant has a driver’s license or a car that is registered. The committee believes non-Vehicle Code infractions are far more likely to not have an address provided.</p> <p>The rule is intended to clarify if there is no known valid mailing address for the defendant and if sending a reminder notice electronically is not possible, either because the court does not have the necessary information or the court does not possess the technological ability to send one, the court need not send a reminder notice in those circumstances. As a practical matter, if there is no valid mailing address, there is no possible way to mail the litigant/defendant a reminder notice with a new court date. The committee declines to make any changes to the proposal at this time, but may consider changes in the future.</p> |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

**SPR24-33**

**Traffic: Mandatory Reminder Notices—Traffic Procedures** (Amend Cal. Rules of Court, rule 4.107)

All comments are verbatim unless indicated by an asterisk (\*).

|    | <b>Commenter</b>   | <b>Position</b> | <b>Comment</b>  | <b>Committee Response</b>  |
|----|--|-----------------|---|--|
|    |  |                 | physical or email address for the defendant.<br>(Those defendants were notified of the original appearance/response due date because they were physically handed the Notice to Appear.)<br>Without any requirement to send out a Reminder Notice on cases processed by the court after the initial appearance date has passed, due process (notice) violations could subject defendants to consequences for failing to appear (trial by declaration in absentia or sent to collections) by the new reminder notice date even though they were unaware the case was ever ultimately filed. This may create a greater impact on the Constitutional rights of the homeless population. |  |
| 2. | Orange County Bar Association<br>by Christina Zabat-Fran, President        | A               | The proposal appropriately addresses the stated purpose.  | The committee appreciates this feedback.   |
| 3. | Superior Court of Orange County<br>by Elizabeth Flores, Operations Analyst | A               | Position on Proposal:<br>This proposal will not have an impact on our court as we are already in compliance with the suggested changes.<br><br>Does the proposal appropriately address the stated purpose?<br>Yes, the proposal appropriately addresses the stated purpose.<br><br>Would the proposal provide cost savings? If so, please quantify.<br>No<br><br>What would the implementation requirements be for courts—for example, training staff   | The committee appreciates this feedback.<br><br>The committee appreciates this feedback.<br><br>The committee appreciates this feedback. |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated



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|    | <b>Commenter</b>   | <b>Position</b> | <b>Comment</b>  | <b>Committee Response</b>  |
|----|--|-----------------|---|--|
|    |  |                 | <p>(please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?<br/>           OCSC will not have to implement any changes to our courtesy notices as they are currently in compliance with the proposed new language of CRC 4.107.</p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? For courts that will need to draft new or modify their courtesy notices, three months is insufficient time. Recommend six months for all courts.</p> <p>How well would this proposal work in courts of different sizes?<br/>           The proposal will go into effect next year. Depending on the court location, necessary adjustments may range from minor to major, or none at all, contingent upon their existing procedures.</p> | <p>The committee appreciates this feedback.</p> <p>The committee understands based on this comment theoretically three months could be insufficient for some courts. However, no comments were received from affected courts requesting more time.</p> <p>The committee appreciates this feedback.</p>   |
| 4. | Superior Court of Orange County, Family Law and Juvenile Divisions by Katie Tobias, Operations Analyst | NI              | Does “valid mailing address” within CRC 4.107(a)(3) include situations where the defendant’s address is unknown at the time the citation was being issued (e.g., transient), or is the intention only for circumstances where the court’s courtesy notice was mailed out and returned as undeliverable?   | The committee appreciates this feedback. The rule is intended to clarify if there is no known valid mailing address for the defendant and if sending a reminder notice electronically is not possible, either because the court does not have the necessary information or the court does not possess the technological ability to send one, the |

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|  | Commenter | Position | Comment  | Committee Response  |
|--|-----------|----------|--|---|
|  |           |          | <p>Does the proposal appropriately address the stated purpose?<br/>Yes, the proposal appropriately addresses the stated purpose.</p> <p>Would the proposal provide cost savings? If so, please quantify.<br/>No, the proposal does not appear to provide any cost savings.</p> <p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?<br/>Implementation would require revising procedures, providing communication to judicial officers and staff, conducting staff training, and updating the case management system.</p> | <p>court need not send a reminder notice in those circumstances. That could apply if a person is experiencing homelessness and no mailing address is provided in the address section on the citation and the litigant has not provided any mailing address. Presumably if a reminder notice was already mailed and returned as undeliverable, this part of the rule would not apply, as the reminder notice was already mailed.</p> <p>The committee appreciates this feedback.</p> <p>The committee appreciates this feedback.</p> <p>The committee appreciates this feedback.</p> |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

**SPR24-33****Traffic: Mandatory Reminder Notices—Traffic Procedures** (Amend Cal. Rules of Court, rule 4.107)

All comments are verbatim unless indicated by an asterisk (\*).

|    | <b>Commenter</b>   | <b>Position</b> | <b>Comment</b>  | <b>Committee Response</b>   |
|----|--|-----------------|---|---|
|    |  |                 | <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?<br/>Yes, three months would provide sufficient time for implementation in Orange County.</p> <p>How well would this proposal work in courts of different sizes?<br/>Our court is a large court, and this could work for Orange County.</p> | <p>The committee appreciates this feedback.</p> <p>The committee appreciates this feedback.</p> |
| 5. | Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC)<br>by TCPJAC/CEAC Joint Rules Subcommittee (JRS) | A               | The JRS notes that the proposal is required to conform to a change of law.  | The committee appreciates this feedback.  |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated