



JUDICIAL COUNCIL OF CALIFORNIA

COURT TECHNOLOGY
ADVISORY COMMITTEE

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COURT TECHNOLOGY ADVISORY COMMITTEE

RULES AND POLICY SUBCOMMITTEE

MINUTES OF OPEN MEETING

March 17, 2015

12:15 PM to 1:15 PM

Teleconference

Advisory Body Members Present: Hon. Peter J. Siggins, Chair; Prof. Dorothy Glancy, Vice Chair; Hon. Kyle S. Brodie; Hon. Julie R. Culver; Hon. Louis R. Mauro; Hon. Theodore C. Zayner; Mr. Don Willenburg

Advisory Body Members Absent:

Others Present: Mr. Patrick O'Donnell, Ms. Tara Lundstrom, Mr. Manny Floresca

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:15 p.m., and roll call was taken.

Approval of Minutes

The advisory body reviewed and approved the minutes of the January 15, 2015, Rules and Policy Subcommittee meeting.

Public Comment

No public comments were received.

DISCUSSION AND ACTION ITEM (ITEM 1)

Item 1

Rules Modernization Project – Phase 1

The Chair provided general background information about the Rules Modernization Project. Other advisory committees were asked to make necessary changes to the rules that they thought would be appropriate to accommodate e-filing and e-service. A number of amendments to titles 2, 3, 4, 5, and 7 have been recommended by the Civil and Small Claims Advisory Committee, the Traffic Advisory Committee, the Family and Juvenile Law Advisory Committee, and the Probate and Mental Health Advisory Committee.

Mr. O'Donnell provided an update on the status of proposed amendments to the appellate rules (title 8). The Joint Appellate Technology Subcommittee has reviewed them, and revisions are being made for final approval.

Mr. O'Donnell also stated that the goal is to have all proposed amendments ready to circulate for public comment from April through June 2015.

The subcommittee approved the proposed amendments to titles 2, 3, 4, 5, and 7 with the modifications identified below with a recommendation that they be circulated for public comment.

The subcommittee modified the proposal as follows:

1. Change "had access to" in rule 2.551(b)(2) to "has access to"
2. Change "separately combined" in rule 3.1350(e) to "the following separate documents titled as shown"

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 12:45 p.m.

Approved by the advisory body on _____.



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date	Action Requested
July 25, 2015	Please review for July 1 meeting
To	Deadline
Members of the Rules and Policy Subcommittee	July 1, 2015
From	Contact
Patrick O'Donnell, Managing Attorney Tara Lundstrom, Attorney Legal Services	Tara Lundstrom 415-865-7650 phone 415-865-7664 fax tara.lundstrom@jud.ca.gov
Subject	
Proposed amendment to rule 4.220 and to forms TR-500-INFO, TR-505, and TR-510	

Background

Rule 4.220 authorizes trial courts to establish remote video pilot projects in cases involving traffic infraction violations. The rule remains in effect until January 1, 2016, unless the council amends the rule. Earlier this year, the Rules and Policy Subcommittee recommended circulating for public comment a rules proposal that would amend rule 4.220 by removing the sunset language in the rule and converting it to a standing rule of court. The Rules and Policy Committee (RUPRO), the Judicial Council Technology Committee, the Court Advisory Technology Committee (CTAC), and the Traffic Advisory Committee (TAC) agreed. The proposal was circulated for public comment, with the comment period ending on June 17, 2015.

In the interim, the Judicial Council adopted rule 4.105 on an urgency basis to address concerns about court procedures for deposit of bail when defendants challenge traffic citations in court.¹ Rule 4.105(d) provides that trial courts must inform defendants of the option to appear in court without the deposit of bail in any instructions or other materials courts provide for the public that relate to bail for traffic infractions, including any written instructions and forms. It also requires that all implementing changes to written instructions and forms take effect “as soon as reasonably possible, but no later than September 15, 2015.”

Last week, TAC reviewed rule 4.220 and corresponding forms (forms TR-500-INFO, TR-505, and TR-510) and recommended changes to the rule and forms to implement rule 4.105. Because any changes must be in effect on or before September 15, 2015, TAC recommended submitting this rules proposal to the Judicial Council during its August 21 meeting. Due to time constraints, the changes implementing rule 4.105 will not be circulated for public comment.

Before the subcommittee for its review is a draft report to the Judicial Council. The draft report recommends amending rule 4.220 and revising corresponding forms to convert the rule to a standing rule of court and to implement rule 4.105. Attached to the draft report is a chart containing the comments received in response to the Invitation to Comment, proposed amendments to rule 4.220, and proposed revisions to forms TR-500-INFO, TR-505, and TR-510. The proposed changes to the rules and forms include those recommended by TAC to implement rule 4.105.

Only five comments were received in response to the Invitation to Comment. Four commentators stated their support of the proposal without amendment. The Superior Court of Riverside County agreed with the proposal with modification. It suggested that Judicial Council approval should not be required for courts to implement remote video proceedings (RVP). However, the rules proposal has already incorporated this suggestion. In converting the rule to a standing rule of court, it would eliminate the requirement that the council approve RVP pilot projects and would instead require only that the court notify the council when it adopts a local rule implementing RVP in traffic infraction cases. No comments were received in response to the subcommittee’s specific request for comments on the costs and benefits of maintaining the rule’s semi-annual reporting requirement and whether the reporting requirement should sunset after a certain period of years.

¹ The Judicial Council report for this proposal, titled *Traffic Law: Appearances in Court for Infractions Without Deposit of Bail*, is available at <http://www.courts.ca.gov/documents/jc-20150608-item1.pdf>.

Subcommittee's task

The subcommittee is tasked with reviewing the public comments and the rules proposal (including additional proposed changes to rule 4.220 and corresponding forms to implement rule 4.105), and:

- Asking staff or subcommittee members for further information and analysis; or
- Advising CTAC to:
 - Recommend to RUPRO that all or part of the proposal be submitted to the Judicial Council for review during its August 21 meeting; or
 - Reject the proposal.

Coordination with the Traffic Advisory Committee

This proposal has been a joint effort of CTAC and TAC. On June 23, 2015, TAC reviewed and recommended amendments to rule 4.220 and revisions to corresponding forms (TR-500-INFO, TR-505, and TR-510) to implement rule 4.105. It also recommended that the rules proposal be submitted to the Judicial Council during its August 21 meeting.

Attachments

- Draft report to the Judicial Council with attachments (comment chart, proposed amendments to rule 4.220, and revisions to forms TR-500-INFO, TR-505, and TR-510)
- Cal. Rules of Court, rule 4.105,
http://www.courts.ca.gov/cms/rules/index.cfm?title=four&linkid=rule4_105



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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 21, 2015

Title	Agenda Item Type
Trial Courts: Permanent Authorization for Remote Video Proceedings and Implementation of Rule 4.105 in Traffic Infraction Cases	Action Required
	Effective Date
	September 1, 2015
Rules, Forms, Standards, or Statutes Affected	Date of Report
Amend Cal. Rules of Court, rule 4.220; revise forms TR-500-INFO, TR-505, and TR-510	June 25, 2015
Recommended by	Contact
Traffic Advisory Committee	Courtney Tucker, 415-865-7611
Hon. Mark S. Borrell, Chair	courtney.tucker@jud.ca.gov
Court Technology Advisory Committee	Tara Lundstrom, 415-865-7650
Hon. Terence L. Bruiniers, Chair	tara.lundstrom@jud.ca.gov

Executive Summary

The Traffic Advisory Committee and Court Technology Advisory Committee recommend amending rule 4.220 of the California Rules of Court and revising corresponding forms (TR-500-INFO, TR-505, and TR-510) to convert the rule into a standing rule of court and to implement new rule 4.105.

Rule 4.220 authorizes trial courts to establish remote video pilot projects in cases involving traffic infraction violations. This proposal would allow trial courts to continue conducting remote video proceedings (RVP) in eligible traffic cases after January 1, 2016, when the rule would otherwise sunset. It would also make changes to the rule and to corresponding forms to implement rule 4.105—the rule recently adopted on an urgency basis to address concerns about court procedures for deposit of bail when defendants challenge traffic citations in court. Because

rule 4.105 requires that all implementing changes to instructions and forms take effect “as soon as reasonably possible, but no later than September 15, 2015,” the Judicial Council’s consideration of this proposal has been expedited and changes related to rule 4.105 were not circulated for public comment. To comply with rule 4.105, the effective date of all changes would be September 1, 2015.

Recommendation

The Traffic Advisory Committee and Court Technology Advisory Committee recommend:

1. Amending rule 4.220; and
2. Revising *Instructions to Defendant for Remote Video Proceedings* (form TR-500-INFO), *Notice of Waiver of Rights and Request for Remote Video Arraignment and Trial* (form TR-505), and *Notice of Waiver of Rights and Request for Remote Video Proceeding* (form TR-510).

Amended rule 4.220 and revised forms TR-500-INFO, TR-500, and TR-510 are attached at pages 9 to 17.

Previous Council Action

The Judicial Council adopted rule 4.220 and corresponding forms, effective February 1, 2013, to January 1, 2016. The Traffic Advisory Committee (TAC) and Court Technology Advisory Committee (CTAC) recommended rule 4.220 based on a suggestion from the Superior Court of Fresno County. Seeking to ameliorate the impact of multiple court closures on the public, the court saw RVP as an effective way to continue offering services to outlying areas.

In trial courts that institute RVP pilot projects under rule 4.220, defendants in eligible cases may elect to appear at trial by two-way video from remote locations designated by the court. Under the rule, RVP is authorized in cases involving alleged infractions of the Vehicle Code or any local ordinance adopted under the Vehicle Code, excluding alcohol and drug infractions under article 2 of chapter 12 of division 11 of the Vehicle Code and cases filed with an informal juvenile and traffic court under Welfare and Institutions Code sections 255 and 256. Participation in the RVP pilot project is voluntary; the defendant must request to proceed by RVP and submit a signed notice of rights and waiver form to the court (form TR-505 or form TR-510).

The Superior Court of Fresno County applied for and received council approval for an RVP pilot project under rule 4.220. It then adopted a local rule establishing the pilot project that became effective March 1, 2013. The court began offering RVP in April at two remote sites located in Mendota and Coalinga. To date, the Superior Court of Fresno County is the only court to have requested and received council authorization for an RVP pilot project.

On June 8, 2015, the Judicial Council adopted rule 4.105 on an urgency basis to address concerns about court procedures for deposit of bail when defendants challenge infraction

citations in court. Rule 4.105 states that courts must allow traffic infraction defendants to appear for arraignment and trial without the deposit of bail, unless a specified exception applies. It also requires courts to inform traffic infraction defendants of the option to appear in court without the deposit of bail in any instructions or other materials provided to the public that relate to bail for traffic infractions, including written instructions and forms. Implementation of the rule's notice requirements is to occur "as soon as reasonably possible, but no later than September 15, 2015."

Rationale for Recommendation

This rules proposal has two components: (1) amendments to rule 4.220 and revisions to form TR-500-INFO that would convert the rule to a standing rule of court, and (2) additional amendments to the rule and revisions to forms TR-500-INFO, TR-505, and TR-510 that would implement new rule 4.105.

Because the council has required that all changes to written instructions and forms implementing rule 4.105 be in effect by September 1, 2015, these amendments and revisions were not circulated for public comment.

Permanent authorization for RVP

The Superior Court of Fresno County has submitted four semiannual reports describing its experience under the pilot project. RVP usage has steadily increased since the court initiated the pilot project, although these cases still represent a small fraction of the total number of citations issued near the remote sites. Technical issues have been infrequent and minor, and they have been resolved promptly by onsite court staff. Postappearance surveys reflect the participants' overall high satisfaction with RVP and the quality of the services provided. Based on its positive experience under the pilot project, the Superior Court of Fresno County has requested that rule 4.220 be amended to allow it to continue offering RVP in eligible cases after January 1, 2016.

Unless rule 4.220 is amended, the Superior Court of Fresno County and other trial courts would no longer be authorized to offer RVP in traffic infraction cases after January 1, 2016. This proposal is necessary to allow courts to continue conducting RVP in eligible cases. It would not make any substantive changes to the rule's procedural requirements or the scope of RVP proceedings.

Eliminate sunset and convert to standing rule of court

This proposal would eliminate the sunset language in rule 4.220 and convert it into a standing rule. Trial courts could offer RVP in eligible cases after they have adopted a local rule permitting RVP and have notified the Judicial Council. Trial courts would no longer be required to request and receive council authorization for pilot projects implementing RVP.

Specifically, subdivision (q), which currently provides the effective dates for the rule, would be removed, as would other references to effective dates in subdivisions (a)(1) and (c). Subdivision (a), which provides the authorization for RVP, would be amended by removing subpart (2)

because this subpart requires that courts request and receive council authorization to conduct pilot projects. Other “pilot project” references would also be stricken from subdivisions (a), (c), (e), (o), and (p). In addition, language would be added to subdivision (p) to provide that courts must notify the council that they will begin offering RVP under the rule.

Retain current reporting requirement

The reporting requirement in subdivision (p) would be retained. Under subdivision (p), trial courts “must institute procedures as required by the Judicial Council for collecting and evaluating information about that court’s pilot project and must prepare semiannual reports to the Judicial Council that include an assessment of the costs and benefits of the project.”

Under the current guidelines, these reports contain information about the number and types of RVP conducted for arraignments, trials, and other proceedings; the locations and facilities used to conduct RVP; details on the type of technology used to conduct RVP; the number of appeals from RVP and the outcome of the appeals; and the number of cases where the law enforcement officer appeared at court instead of at the remote location with the defendant. They should also include information that would help the council evaluate whether it should modify rule 4.220 or expand RVP to other case types.

Retaining this semiannual reporting requirement would enable the council to continue monitoring the use of this new technology in the courts. This information and data will provide valuable feedback to the council as it considers whether to expand RVP to other case types.

Retain current procedural requirements and scope

This proposal would not make substantive changes to the procedural requirements under the rule for implementing RVP at the trial courts, nor does it expand RVP to other case types. The Superior Court of Fresno County has expressed its satisfaction with the current requirements and has not sought any modification to the RVP procedure set forth in the rule. Its semiannual reports do not reflect any issues with the implementation of this procedure.

Make minor changes to form TR-500-INFO

Form TR-500-INFO provides information and instructions to defendants about RVP, including how to request RVP, the opportunity to appeal the court’s ruling, and which rights the defendant will be waiving by requesting to appear in RVP. This proposal would make the language of the form consistent with the amendments to rule 4.220 by removing references to a “pilot project.”

Implementation of rule 4.105

Rule 4.105(b) provides that courts must allow a defendant to appear for arraignment and trial without the deposit of bail, unless one of three exceptions applies. These exceptions are: (1)

courts must require the deposit of bail when the defendant elects a statutory procedure¹ that requires the deposit of bail; (2) courts may require the deposit of bail when the defendant does not sign a written promise to appear as required by the court; and (3) courts may require a deposit of bail before trial if the court finds, based on the circumstances of a particular case, that the defendant is unlikely to appear as ordered without a deposit of bail and the court expressly states the reasons for the finding. (Cal. Rules of Court, rule 4.105(c).)

In addition, rule 4.105(d) provides that courts must inform defendants of the option to appear in court without the deposit of bail in any instructions or other materials courts provide for the public that relate to bail for traffic infractions, including any written instructions and forms.

Amend rule 4.220 to cross-reference rule 4.105

This proposal contains one proposed amendment to rule 4.220 related to implementing rule 4.105. Subdivision (f) of rule 4.220 governs the deposit of bail for RVP. This proposal would replace the language in subdivision (f) describing the applicable procedures for depositing bail with a cross-reference to rule 4.105. Adding the cross-reference—in lieu of incorporating language from rule 4.105 directly into subdivision (f)—would facilitate any future amendments to the procedures for depositing bail. Any amendments to rule 4.105 would automatically apply to the deposit of bail in RVP, thereby guaranteeing uniform bail procedures irrespective of whether the defendant appears in court or by remote video.

Make implementing changes to forms TR-500-INFO, TR-505, and TR-510

This proposal would also implement rule 4.105 by making changes to forms TR-500-INFO, TR-505, and TR-510. All three forms would be revised to notify defendants of their rights to appear for arraignment without depositing bail and to request that a court trial be scheduled without bail. Additional changes are described in the following.

Form TR-500-INFO provides information and instructions to defendants about RVP. The proposed changes would revise form TR-500-INFO to inform defendants that the court may require the deposit of bail to schedule a trial and that bail should accompany the request for RVP as ordered by the court.

Form TR-505 is required when defendants request to appear by RVP for arraignment and trial on the same day. It is used to notify defendants of their rights and for defendants to waive certain rights. This proposal would revise form TR-505 to require the defendant to waive the “right to appear in person in court on separate days for arraignment without deposit of bail and for trial without deposit of bail unless ordered by the court.”

¹ For example, Penal Code section 40519(a) authorizes defendants who have received a written notice to appear to declare their intention to plead not guilty and deposit bail before the notice to appear date for purposes of electing to schedule an arraignment and trial on the same date or on separate dates.

Lastly, this proposal would make implementing changes to form TR-510, which is required when defendants request to appear for arraignment or trial on separate days. It is used to notify defendants of their rights and for defendants to waive certain rights. This proposal would add a space to form TR-510 where the court, if it decides to require bail for trial, must specify its reasons. This revision implements subdivision (c)(3) of rule 4.105, which provides that courts must state its reasons for requiring the deposit of bail before trial.

Comments, Alternatives Considered, and Policy Implications

Only part of this rules proposal was circulated for public comment. Because rule 4.105 was adopted by the Judicial Council on an urgent basis and requires that implementing changes be in effect by September 1, 2015, those changes were not circulated for public comment.

The circulated rules proposal addressed only those changes related to converting rule 4.220 to a standing rule of court. Five comments were received in response to the circulated rules proposal. Four commentators stated their support of the proposal without amendment.

The Superior Court of Riverside County agreed with the proposal with modification. It stated that courts “should have the discretion to implement without needing approval of the Judicial Council” because approval “makes implementation more burdensome and time consuming” and “eliminates discretion of [the] trial court.” The committee agrees that council approval would be burdensome for trial courts. Nevertheless, the committee has not modified this proposal since it already addresses the court’s concerns. The proposed amendments would eliminate the requirement that courts request and receive council approval before implementing RVP. Instead, courts would only have to notify the council. The committees reasoned that providing notice would not unduly burden the courts while ensuring that the council remains apprised of any courts that decide to offer RVP in traffic infraction cases.

Alternatives

TAC and CTAC considered three alternatives related to converting the rule to a standing rule of court. Because rule 4.105 requires implementing changes, the committees did not consider alternatives to the proposed amendments and form revisions related to rule 4.105.

Alternative 1: Eliminate notice and semiannual reporting requirements.

The first alternative would amend rule 4.220 by removing not only the sunset language, but also any requirement that trial courts provide notice and semiannual reports to the Judicial Council. This alternative has the benefit of reducing the time that trial courts must spend preparing and submitting notices and semiannual reports to the council, and that the council and its staff must devote to reviewing them. In light of this concern, the advisory committees specifically requested comments regarding the costs and benefits of retaining the semiannual reporting requirement, and whether subdivision (p) of rule 4.220 should be amended to include a sunset provision, such that courts would only be required to submit semiannual reports for a certain period of years. No comments were submitted in response to this request.

Implementing the first alternative would limit the council's oversight of RVP at the trial court level. The council and its staff would have no effective means of knowing which trial courts are conducting RVP or of gathering information and data about the implementation of RVP by trial courts, including any issues, concerns, and creative solutions. Such information and data presented in the semiannual reports could prove useful to the advisory committees as they review possibilities for expanding RVP at the trial courts.

Alternative 2: Extend pilot project

The second alternative would amend rule 4.220 by extending the effective date for an additional period of years, but not eliminating the sunset language. This alternative would continue the provisional nature of the rule for an additional period of years. This option would give the council an opportunity to carefully review each court's request for a pilot project. In comparison with the above proposal, however, this alternative would result in an additional cost to trial courts as they would need to prepare and present an application to the Judicial Council for its approval before they could start offering RVP in traffic infraction cases. It would also require that the council and its staff spend time reviewing these applications and, if desired, amend the rule to extend or eliminate the effective date at a later time. The benefit of this additional oversight is minimal in light of the notice and semiannual reporting requirements contained in the above proposal.

Alternative 3: Allow rule to sunset

The last alternative is not to seek an amendment to the rule and allow it to sunset. Weighing in favor of this approach is the fact that only one trial court has requested and implemented an RVP pilot project since rule 4.220 was adopted two years ago. So far, no other courts have expressed an interest in establishing a pilot project to the advisory committees or Judicial Council staff. Yet, this alternative would effectively end the Superior Court of Fresno County's RVP program on January 1, 2016. The Superior Court of Fresno County has successfully implemented the pilot project, has reported its overall satisfaction with the project, and has expressed an interest in continuing to offer these services in outlying areas. Moreover, this alternative would prevent other courts from conducting RVP in traffic cases in the future. As trial courts are forced to close courthouses in the face of budget constraints, they may follow the Superior Court of Fresno County's lead and elect to offer RVP in remote locations in an effort to increase public access.

Implementation Requirements, Costs, and Operational Impacts

Implementation of this proposal will allow the Superior Court of Fresno County to continue offering this service, which has preserved access to the public in outlying areas and resulted in efficiencies and cost savings for the court. It will require the court to make revised forms available to the public, which may incur minor costs. Otherwise, it will have no effect on the court since it is currently preparing and submitting semiannual reports.

For other trial courts that may decide to offer RVP under the rule in the future, the implementation costs will decrease slightly. These courts will no longer be required to apply for and receive Judicial Council approval before offering RVP in eligible cases under the rule.

Instead, they will only need to notify the council. Otherwise, implementation and its associated costs will remain the same as they are under the current rule. Collaboration between courts, local cities and counties, law enforcement, and members of the public will be required.

There will be a need for planning and the allocation of resources—including physical locations, technology, and staffing. There will also be a need to train public employees to act as deputy clerks and provide security for the remote video trials at the local community facilities and to provide information to the public. These additional expenses may be offset by savings for the courts in terms of reduced maintenance of court facilities, and for the public and law enforcement in terms of reduced travel time and expense. Because implementation is voluntary, each court will determine if the benefits outweigh the costs in deciding whether to offer RVP.

Attachments and Links

1. Cal. Rules of Court, rule 4.220, at pages 9–14
2. Form TR-500-INFO, at page 15
3. Form TR-505, at page 16
4. Form TR-510, at page 17
5. Comment Chart, at page 18

Rule 4.220 of the California Rules of Court would be amended, effective September 1, 2015, to read:

1 **Rule 4.220. Remote video proceedings in traffic infraction cases**

2
3 **(a) Authorization for ~~pilot project~~ remote video proceedings**

4
5 ~~(1) With the approval of the Judicial Council, a~~ A superior court may establish by
6 local rule a ~~pilot project through December 31, 2015, to~~ permit arraignments, trials,
7 and related proceedings concerning the traffic infractions specified in (b) to be
8 conducted by two-way remote video communication methods under the conditions
9 stated below.

10
11 ~~(2) To obtain approval of the Judicial Council to conduct a pilot project for~~
12 ~~remote video proceedings under this rule, a court must submit an application~~
13 ~~to the council that includes details on what procedures and forms the court~~
14 ~~intends to institute for processing cases in the pilot project.~~

15
16 **(b) Definitions**

17
18 For the purposes of this rule:

19
20 (1) “Infraction” means any alleged infraction involving a violation of the Vehicle
21 Code or any local ordinance adopted under the Vehicle Code, other than an
22 infraction cited under article 2 (commencing with section 23152) of chapter
23 12 of division 11 of the Vehicle Code, except that the procedures for remote
24 video trials authorized by this rule do not apply to any case in which an
25 informal juvenile and traffic court exercises jurisdiction over a violation
26 under sections 255 and 256 of the Welfare and Institutions Code.

27
28 (2) “Remote video proceeding” means an arraignment, trial, or related
29 proceeding conducted by two-way electronic audiovisual communication
30 between the defendant, any witnesses, and the court in lieu of the physical
31 presence of both the defendant and any witnesses in the courtroom.

32
33 (3) “Due date” means the last date on which the defendant’s appearance is timely
34 under this rule.

35
36 **(c) Application**

37
38 This rule establishes the minimum procedural requirements and options for courts
39 that conduct a ~~pilot project for~~ remote video proceedings for cases in which a
40 defendant is charged with an infraction as defined in (b) and the defendant’s
41 requests to proceed according to this rule ~~is for a trial or related proceeding that is~~
42 ~~set for a date after January 31, 2013.~~

1 (d) **Designation of locations and presence of court clerk**

- 2
- 3 (1) The court must designate the location or locations at which defendants may
- 4 appear with any witnesses for a remote video proceeding in traffic infraction
- 5 cases.
- 6
- 7 (2) The locations must be in a public place, and the remote video proceedings
- 8 must be viewable by the public at the remote location as well as at the
- 9 courthouse.
- 10
- 11 (3) A court clerk must be present at the remote location for all remote video
- 12 proceedings.
- 13

14 (e) ~~Scope of court pilot project~~ **Required procedures and forms and request by**

15 **defendant**

16

17 A court that conducts remote video proceedings under this rule must comply with

18 the following procedures and required forms in this section ~~must be included in~~

19 ~~the court's pilot project for remote video proceedings.~~ In addition to following the

20 standard provisions for processing traffic infraction cases, the defendant may

21 request to proceed by remote video proceeding as provided below.

22

23 (1) *Arraignment and trial on the same date*

24

25 The following procedures apply to a remote video proceeding when the court

26 grants a defendant's request to have an arraignment and trial on the same

27 date:

28

29 (A) The defendant must review a copy of the *Instructions to Defendant for*

30 *Remote Video Proceeding* (form TR-500-INFO).

31

32 (B) To proceed by remote video arraignment and trial, the defendant must

33 sign and file a *Notice and Waiver of Rights and Request for Remote*

34 *Video Arraignment and Trial* (form TR-505) with the clerk by the

35 appearance date indicated on the *Notice to Appear* or a continuation of

36 that date granted by the court and must deposit bail when filing the

37 form.

38

39 (C) A defendant who is dissatisfied with the judgment in a remote video

40 trial may appeal the judgment under rules 8.901–8.902.

41

42 (2) *Arraignment on a date that is separate from a trial date*

43

1 The following procedures apply to a remote video proceeding when the court
2 grants a defendant's request to have an arraignment that is set for a date that
3 is separate from the trial date:
4

- 5 (A) The defendant must review a copy of the *Instructions to Defendant for*
6 *Remote Video Proceeding* (form TR-500-INFO).
7
- 8 (B) To proceed by remote video arraignment on a date that is separate from
9 a trial date, the defendant must sign and file a *Notice and Waiver of*
10 *Rights and Request for Remote Video Proceeding* (form TR-510) with
11 the clerk by the appearance date indicated on the *Notice to Appear* or a
12 continuation of that date granted by the court.
13

14 (3) *Trial on a date that is separate from the date of arraignment*
15

16 The following procedures apply to a remote video proceeding when the court
17 grants a defendant's request at arraignment to have a trial set for a date that is
18 separate from the date of the arraignment:
19

- 20 (A) The defendant must review a copy of the *Instructions to Defendant for*
21 *Remote Video Proceeding* (form TR-500-INFO).
22
- 23 (B) To proceed by remote video trial, the defendant must sign and file a
24 *Notice and Waiver of Rights and Request for Remote Video Proceeding*
25 (form TR-510) with the clerk by the appearance date indicated on the
26 *Notice to Appear* or a continuation of that date granted by the court and
27 deposit bail with the form as required by the court under section (f).
28
- 29 (C) A defendant who is dissatisfied with the judgment in a remote video
30 trial may appeal the judgment under rules 8.901–8.902.
31

32 (4) *Judicial Council forms for remote video proceedings*
33

34 The following forms must be made available by the court and used by the
35 defendant to implement the procedures that are required ~~by a court's pilot~~
36 ~~project~~ under this rule:
37

- 38 (A) *Instructions to Defendant for Remote Video Proceeding* (form TR-500-
39 INFO);
40
- 41 (B) *Notice and Waiver of Rights and Request for Remote Video*
42 *Arraignment and Trial* (form TR-505); and
43

1 (C) *Notice and Waiver of Rights and Request for Remote Video Proceeding*
2 (form TR-510).

3
4 **(f) Deposit of bail**

5
6 ~~(1) If a defendant requests to proceed by remote video arraignment and trial as~~
7 ~~provided in section (e)(1), the defendant must deposit bail, at the same time~~
8 ~~the request is filed, in the amount established in the uniform traffic penalty~~
9 ~~schedule under Vehicle Code section 40310.~~

10
11 ~~(2) If a defendant requests to proceed by remote video proceeding for a trial as~~
12 ~~provided in section (e)(3), the judicial officer may require deposit of bail, at~~
13 ~~the same time the request for remote video proceeding is filed, in the amount~~
14 ~~established in the uniform traffic penalty schedule under Vehicle Code~~
15 ~~section 40310.~~

16
17 Procedures for deposit of bail to process requests for remote video proceedings
18 must follow rule 4.105.

19
20 **(g) Appearance of witnesses**

21
22 On receipt of the defendant's waiver of rights and request to appear for trial as
23 specified in section (e)(1) or (e)(3), the court may permit law enforcement officers
24 and other witnesses to testify at the remote location or in court and be cross-
25 examined by the defendant from the remote location.

26
27 **(h) Authority of court to require physical presence of defendant and witnesses**

28
29 Nothing in this rule is intended to limit the authority of the court to issue an order
30 requiring the defendant or any witnesses to be physically present in the courtroom
31 in any proceeding or portion of a proceeding if the court finds that circumstances
32 require the physical presence of the defendant or witness in the courtroom.

33
34 **(i) Extending due date for remote video trial**

35
36 If the clerk receives the defendant's written request for a remote video arraignment
37 and trial on form TR-505 or remote video trial on form TR-510 by the appearance
38 date indicated on the *Notice to Appear* and the request is granted, the clerk must,
39 within 10 court days after receiving the defendant's request, extend the appearance
40 date by 25 calendar days and must provide notice to the defendant of the extended
41 due date on the *Notice and Waiver of Rights and Request for Remote Video*
42 *Arraignment and Trial* (form TR-505) or *Notice and Waiver of Rights and Request*

1 for *Remote Video Proceeding* (form TR-510) with a copy of any required local
2 forms.

3
4 **(j) Notice to arresting officer**

5
6 If a court grants the defendant’s request for a remote video proceeding after receipt
7 of the defendant’s *Notice and Waiver of Rights and Request for Remote Video*
8 *Arrestment and Trial* (form TR-505) or *Notice and Waiver of Rights and Request*
9 *for Remote Video Proceeding* (form TR-510) and bail deposit, if required, the clerk
10 must deliver, mail, or e-mail a notice of the remote video proceedings to the
11 arresting or citing law enforcement officer. The notice to the officer must specify
12 the location and date for the remote video proceeding and provide an option for the
13 officer to request at least five calendar days before the appearance date to appear in
14 court instead of at the remote location.

15
16 **(k) Due dates and time limits**

17
18 Due dates and time limits must be as stated in this rule, unless extended by the
19 court. The court may extend any date, and the court need not state the reasons for
20 granting or denying an extension on the record or in the minutes.

21
22 **(l) Ineligible defendants**

23
24 If the defendant requests a remote video proceeding and the court determines that
25 the defendant is ineligible, the clerk must extend the due date by 25 calendar days
26 and notify the defendant of the determination and the new due date.

27
28 **(m) Noncompliance**

29
30 If the defendant fails to comply with this rule (including depositing the bail amount
31 when required, signing and filing all required forms, and complying with all time
32 limits and due dates), the court may deny a request for a remote video proceeding
33 and may proceed as otherwise provided by statute.

34
35 **(n) Fines, assessments, or penalties**

36
37 This rule does not prevent or preclude the court from imposing on a defendant who
38 is found guilty any lawful fine, assessment, or other penalty, and the court is not
39 limited to imposing money penalties in the bail amount, unless the bail amount is
40 the maximum and the only lawful penalty.

41
42 **(o) Local rules and forms**

43

1 A court establishing a remote video ~~trial project~~ proceedings under this rule may
2 adopt such local rules and additional forms as may be necessary or appropriate to
3 implement the rule and the court's local procedures not inconsistent with this rule.

4 **(p) Notice and collection of information and reports on remote video proceedings**
5 **pilot project**

6
7 Each court that establishes a local rule authorizing remote video proceedings a ~~pilot~~
8 ~~project~~ under this rule must notify the Judicial Council, institute procedures as
9 required by the Judicial council for collecting and evaluating information about that
10 court's ~~pilot project~~ program, and ~~must~~ prepare semiannual reports to the Judicial
11 council that include an assessment of the costs and benefits of ~~the project~~ remote
12 video proceedings at that court.

13
14 **(q) ~~Effective dates~~**

15
16 ~~This rule is adopted effective February 1, 2013, and remains in effect only until~~
17 ~~January 1, 2016, and as of that date is repealed, unless a rule adopted before~~
18 ~~January 1, 2016, repeals or extends that date.~~

INSTRUCTIONS TO DEFENDANT FOR REMOTE VIDEO PROCEEDING

A court **may by local rule** permit remote video arraignments and trials for traffic infraction cases. (Cal. Rules of Court, rule 4.220.) If the court where your case is filed **permits remote video proceedings (RVP)**, you may be able to appear by video as allowed by local rule at a remote location designated by the court without having to appear in person at court. **RVP** are available in cases involving Vehicle Code infractions or local ordinances adopted under the Vehicle Code. The procedure does not apply to traffic offenses that involve drugs or alcohol or are filed in Informal Juvenile and Traffic Court. The procedure provides a convenient process for resolving cases by consideration of disputed facts and evidence with the use of two-way audiovisual communication between the court and a local facility. Defendants who **request** to appear by RVP must waive (give up) certain rights that apply to trial of criminal offenses, including traffic infractions. The instructions below explain procedures for requesting RVP for traffic infraction cases:

1. To request arraignment and trial on the same day, you may file a *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial* (form TR-505). To request RVP for arraignment or trial on separate days, you may file a *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510).
2. Return the completed and signed form to the clerk with payment of bail as ordered by the court. A completed form TR-505 or TR-510 with a deposit of the required bail payment must be received by the clerk by the appearance date on the Notice to Appear citation or continuation date granted by the court. If the form is received after the due date or without deposit of bail as required, the court may require a court appearance or bail deposit to schedule **a trial**. **Failure to file the form and deposit bail as required by the due date may subject you to other charges, penalties, assessments, and actions, including a civil assessment under Penal Code section 1214.1 of up to \$300 and a hold on your driver's license.**
3. When the clerk receives a timely request for RVP with payment of the **bail as ordered** by the court, the court will rule on the request and provide notice of the court's decision on eligibility for RVP. If the court denies the request, the court may order you to respond within 10 court days of the notice of the order to schedule an arraignment or trial or appear in court. If the court approves the request, the court will notify you and the officer of the extended date and location to appear. The court may grant a request by the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while you appear at the remote location.
4. After a remote video trial is completed, if you are dissatisfied with the court's judgment, you may file an appeal under California Rules of Court, rules 8.901–8.902 within 30 days of the judgment. A new trial ("trial de novo") is not allowed. Always include your citation number in any correspondence with the court.
5. **IMPORTANT:** You have the right to appear **at court** for an in-person arraignment **without deposit of bail** and trial at the court. If you appear at court for your case, your rights include:
 - The right to be represented by an attorney employed by you;
 - The right to request court orders without cost to subpoena and compel the attendance of witnesses and the production of evidence on your behalf;
 - The right to appear in person in court before a judicial officer for an arraignment to be informed of the charges against you, to be advised of your rights, and to enter a plea **without deposit of bail**;
 - The right to request that a **court** trial be scheduled **without bail** for a date that is after your arraignment in court;
 - The right to have a speedy trial;
 - The right to be physically present in court at all stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law at trial and sentencing; and
 - The right to have the witnesses testify under oath in court and to confront and cross-examine witnesses in court.

By voluntarily requesting to appear for arraignment and/or trial by RVP, you will agree to waive (give up):

- Your right to appear in person in court before a judicial officer for arraignment and/or trial;
- Your right to a speedy trial within 45 days; and
- Your right to be physically present in court for trial and sentencing and all stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination in person of the officer that issued the ticket and other witnesses.

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT- NOT ADOPTED BY JUDICIAL COUNCIL
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT (Name):	
NOTICE AND WAIVER OF RIGHTS AND REQUEST FOR REMOTE VIDEO ARRAIGNMENT AND TRIAL (Veh. Code, § 40901 and 40519(a))	CITATION NUMBER /CASE NUMBER: BAIL AMOUNT DUE DATE (For filing form)

1. Notice to Defendant of Rights:

- You have the right to appear in person in court before a judicial officer for arraignment, to be informed of the charges against you, to be advised of your rights, and to enter a plea **without deposit of bail.**
- You have the right to request **at arraignment** that a **court** trial be scheduled for a date after your arraignment.
- You have the right to a speedy trial within 45 days of submitting your request for a trial.
- You have the right to be physically present in court for trial and sentencing and all other stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law.
- You have the right to have witnesses testify under oath in court and to confront and cross-examine them in court.

2. Waiver of Rights and Request for Remote Video Arraignment and Trial **with Deposit of Bail:**

a. I, (print name): _____, am the defendant in this traffic infraction case and understand that my rights include those listed above and also the right to hire an attorney and subpoena witnesses. I understand that a remote video proceeding (RVP) uses two-way electronic audiovisual communication between the court and me at the remote location instead of having me physically appear in the courtroom. By requesting RVP, I agree to appear at the designated off-site location and agree that the court may order me to appear in my case by RVP for any related proceedings. By requesting that the court allow me to proceed without being physically present in the courtroom and appear for all proceedings by RVP, I voluntarily elect to waive (give up) the following rights:

INITIALS

- My right to appear in person in court **on separate days** for arraignment **without deposit of bail** and **for** trial **without deposit of bail unless ordered by the court;**
- My right to a speedy trial within 45 days; and
- My right to be physically present in the court for trial and sentencing and all other stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination of witnesses in court.

I have read the *Instructions to Defendant for Remote Video Proceedings* (form TR-500-INFO) and request to appear by RVP in this case. I understand that the court may permit the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while I appear at the remote location and may deny my request at any time and order me to be present in the courtroom for any proceedings conducted in this case.

- b. I enclose bail of \$_____.
- c. I need an interpreter: Yes No (language): _____
- d. I have an attorney to represent me: Yes No (name of attorney): _____
- e. I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct. I promise to appear for all proceedings ordered by the court in this case. I understand that if I do not appear as promised the court may impose penalties, including a civil assessment of up to \$300 under Penal Code 1214.1, and report the failure to appear to the Department of Motor Vehicles for a hold on my license.

Date: _____ ▶ _____
DEFENDANT'S SIGNATURE

_____ (Defendant's Phone Number) _____ (Defendant's Street Address/City/State/ZIP) _____ (Defendant's E-mail Address)

Please return this form to the court clerk in person or mail to:

[Court location]

TO BE COMPLETED BY CLERK

Date: _____ Approved by: _____
DEPUTY CLERK

Hearing set for (type of hearing): _____ on (date): _____ at (time): _____
 Location: [off-site location] [off-site location]

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT- NOT ADOPTED BY JUDICIAL COUNCIL</h2>		
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT (Name):			
NOTICE AND WAIVER OF RIGHTS AND REQUEST FOR REMOTE VIDEO PROCEEDING (Veh. Code, § 40901)	CITATION NUMBER /CASE NUMBER: <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:60%; padding: 2px;"> Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No </td> <td style="width:40%; padding: 2px;"> Due Date (For Form) </td> </tr> </table>	Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No	Due Date (For Form)
Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No	Due Date (For Form)		

1. Notice to Defendant of Rights:

- You have the right to appear in person in court before a judicial officer **without deposit of bail** for an arraignment to be informed of the charges against you, be advised of your rights, **and** to enter a plea, **and request that a trial be scheduled without deposit of bail.**
- You have the right to request **with deposit of bail** that a trial be scheduled for the same date as your arraignment.
- You have the right to a speedy trial within 45 days of submitting your request for a trial.
- You have the right to be physically present in court for trial and sentencing and all other stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law.
- You have the right to have witnesses testify under oath in court and to confront and cross-examine them in court.

2. Waiver of Rights and Request for Remote Video Arraignment or Trial Under Rule: _____

- a. I, (*print name*) _____ am the defendant in this traffic infraction case and understand that my rights include those listed above and also the right to hire an attorney and subpoena witnesses. I understand that a remote video proceeding (RVP) uses two-way electronic audiovisual communication between the court and me at the remote location instead of having me physically appear in the courtroom. By requesting RVP I agree to appear at the designated off-site location and agree that the court may order me to appear in my case by RVP for any related proceedings. By requesting that the court allow me to proceed without being physically present in court and appear for all proceedings by RVP, I voluntarily elect to waive (give up) the following rights for (*check one*) arraignment trial:
- My right to appear for arraignment in person in court before a judicial officer and have a trial on the same day;
 - My trial right to a speedy trial within 45 days; and
 - My trial right after arraignment to be physically present in the court for trial and sentencing and all other stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination of witnesses in court.
- I have read the *Instructions to Defendant for Remote Video Proceedings* (form TR-500-INFO) and request to appear by RVP in this case. I understand that the court may permit the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while I appear at the remote location and may deny my request at any time and order me to be present in the courtroom for any proceedings conducted in this case.
- b. If bail is required for trial: \$ _____ is enclosed. **Reason for bail:** _____
- c. I need an interpreter: Yes No (*Language*): _____
- d. I have an attorney to represent me: Yes No (*Name of attorney*): _____
- e. I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct. I promise to appear for all proceedings ordered by the court in this case. I understand that if I do not appear as promised the court may impose penalties, including a civil assessment of up to \$300 under Penal Code 1214.1, and report the failure to appear to the Department of Motor Vehicles for a hold on my license.

Date: _____ ▶ _____
Defendant's Signature

_____ _____ _____
Defendant's Phone Number Defendant's Street Address/City/State/ZIP Defendant's E-mail Address

Please return this form to the court clerk in person or mail to:

[Court location]

TO BE COMPLETED BY CLERK

Date: _____ Approved by: _____
Deputy Clerk

Hearing set for: _____ on _____ at _____
Type of Hearing Date Time

Location: [off-site location] [off-site location]

SPR15-31**Trial Courts: Permanent Authorization for Remote Video Proceedings in Traffic Infraction Cases** (amend rule 4.220; revise form TR-500-INFO)

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

	Commentator	Position	Comment	Committee Response
1.	Law Offices of Azar Elihu Azar Elihu, Attorney Los Angeles	A	No narrative comments submitted.	
2.	Orange County Bar Association By Ashleigh Aitken, President Newport Beach	A	No narrative comments submitted.	
3.	Superior Court of Los Angeles Los Angeles	A	No narrative comments submitted.	
4.	Superior Court of Riverside County By Marita Ford Riverside	AM	Court's should have the discretion to implement without needing approval of the Judicial Council; makes implementation more burdensome and time consuming; eliminates discretion of trial court.	
5.	Superior Court of San Diego County By Michael M. Roddy, Executive Officer San Diego	A	No narrative comments submitted.	