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## Traffic Citations

### 505.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations and the procedure for the correction and dismissal of traffic citations.

### 505.2 RESPONSIBILITIES

The Traffic Bureau Lieutenant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Traffic Bureau Lieutenant shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

### 505.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)).

Should an officer determine that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court to dismiss the citation.

#### 505.3.1 PROCEDURE

When a traffic citation has been issued, and the issuing officer determines it should be dismissed based on an issuing error or in the interest of justice, the officer shall:

- (a) Complete a "Notice of Correction" form,
- (b) Check "other" as the reason for the correction and write in, "Request the Court consider dismissing this citation in the interest of justice" or "Request the Court consider dismissing this citation due to a lack of officer recall" or for any other reason,
- (c) Distribute the correction notice as indicated on the form,
- (d) Submit the correction notice for supervisor approval, and
- (e) If approved, mail a copy of the correction notice to the driver.

### 505.4 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall:

- (a) Complete a "Notice of Correction" form,
- (b) Check the reason for the correction,
- (c) Distribute the correction notice as indicated on the form,
- (d) Submit the correction notice for supervisor approval, and
- (e) If approved, mail a copy of the correction notice to the driver.

# Berkeley Police Department

## Law Enforcement Services Manual

### *Traffic Citations*

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#### **505.5 DISPOSITION OF TRAFFIC CITATIONS**

Before the end of shift, officers shall turn in the original copy of all issued traffic citations to their immediate supervisor for review. Upon approval, supervisors will route the citations to Records Management for filing.

Upon separation from employment with this department, all employees issued traffic citation books shall return any unused citations to the Records Management.

#### **505.6 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE**

Notice of parking violation appeals are conducted pursuant to Vehicle Code § 40215.

##### **505.6.1 APPEAL STAGES**

Appeals may be pursued sequentially at three different levels (Vehicle Code § 40215; Vehicle Code § 40230):

1. **Administrative Review:** Administrative reviews are conducted by City of Berkeley staff who will review written/documentary data. Requests for administrative reviews are available online and through Customer Service located at 1947 Center Street. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.
2. **Administrative Hearing:** If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.
3. **Superior Court Review:** If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to the Superior Court of California.

##### **505.6.2 TIME REQUIREMENTS**

An administrative review or administrative hearing will not be provided if the mandated time limits are not adhered to by the violator.

1. **Administrative Review:** Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).
2. **Administrative Hearing:** Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)). An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person

# Berkeley Police Department

## Law Enforcement Services Manual

### *Traffic Citations*

---

requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).

3. Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209 and Vehicle Code § 40210).

#### 505.6.3 COSTS

1. Administrative Review: There is no cost for an administrative review.
2. Administrative Hearing: Appellants must deposit the full amount due for the citation before receiving an administrative hearing, unless the person is indigent, as defined in Vehicle Code § 40220, and provides satisfactory proof of inability to pay (Vehicle Code § 40215).
3. Superior Court Review: An appeal through Superior Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

#### 505.7 JUVENILE CITATIONS

The completion of traffic citations for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency, and the type of offense should be considered before issuing the juvenile a citation, see also the Temporary Custody of Juveniles and the Cite and Release Policies.

#### 505.8 STORAGE/ACCESS

The Traffic Bureau Lieutenant, or his/her designee, shall maintain a supply of moving and parking citations in the designated location within the Public Safety Building (PSB). Any officer observing that the supply is low should inform their supervisor who should then contact the Traffic Bureau Lieutenant for additional citations.

#### 505.9 OBTAINING CITATION BOOKS

An officer in need of citation books shall record in the Citation Log Book the following information:

- (a) The beginning and ending numbers of the citations issued,
- (b) The date of issuance and
- (c) The name and badge number of the officer to whom the citation book is issued.

#### 505.10 ACCOUNTING

Alameda County maintains an accounting of all moving citations and fines due/received. The City of Berkeley Parking Citations Center maintains an accounting of all parking citations and fines due/received. This information is accessible through the Traffic Bureau Lieutenant or his/her designee.