

Low Income Parking Citation Payment Plan Compliance with Vehicle Code § 40220 Legislative Requirements

SUMMARY

The 2021/2022 San Diego County Grand Jury (Grand Jury) investigated a citizen complaint based on California Vehicle Code Section 40220 (CVC 40220). CVC 40220 requires a parking citation processing agency to provide a payment plan option for low income (indigent) persons. CVC 40220 also requires a processing agency to announce the availability of an installment payment on their parking citation and on their public website.

Amendments to CVC 40220 began with Assembly Bill (AB) 503, signed into law October 2017, which set a limit on the amount of a payment plan's monthly installment, the duration of the payment plan, waived late fees, limited processing fees, and set a deadline for payment plan applications.¹ ² The AB 2544 amendment, approved September 2018, sec 3, declared this act is an urgency statute, (to provide financial relief for indigent persons).³ AB 3277 amendments, approved September 2020, increase the amount to be paid in installments from \$300 to \$500; extended the duration of a payment plan from 18 months to 24 months; and extended the deadline for filing a payment plan application from 60 days to 120 days.⁴

Prior to this legislation, citation issuing agencies could issue Delinquency Notices for unpaid parking tickets without having to offer a payment plan. The scope of Delinquency Notices allows the agency to double the fines, add penalty fees, and forward an itemization to the California Department of Motor Vehicles (DMV) for collection. DMV collection processing can result in holds being placed on car registration or renewal, and/or holds on driver license application or renewal, and/or vehicles being immobilized, impounded, and sold at lien sales.

In a worst-case scenario, DMV processing could place a burden on low-income parking violators due to loss of license, registration, and/or vehicle. 40220 (1) (A) reads, "For unpaid parking penalties issued on and after July 1, 2018, and related service fees, the processing agency shall not file an itemization with the [DMV] department unless all of the following [40220 payment plan] conditions have been satisfied." An issuing or processing agency's 40220 compliance is a state mandated service to benefit the citizens who need a payment plan the most.

For these reasons, the Grand Jury recommends that issuing agencies, and processing agencies that are not private companies, with non-compliant parking citations and/or non-compliant parking citation webpages, revise their citations and webpages to meet current CVC 40220 compliance requirements.

¹ Vehicle Code, Division 17, Chapter 1, Article 3, Procedure on Parking Violations [40200-40230], https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=Veh§ionNum=40220.

² Assembly Bill 503, https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB503.

³ Assembly Bill 2544, https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2544.

⁴ Assembly Bill 3277, https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB3277.

INTRODUCTION

The initial AB 503 amendment to CVC 40220 dates back four years. Ticket-issuing and ticket-processing agencies have had adequate time to make the availability of a payment plan public knowledge on their citation notices and on their corresponding public internet webpages.

The printed parking citation is a highly visible place to announce the availability of a low-income payment plan. A processing agency's public internet website, i.e., a citation related webpage, is a place to provide detailed payment plan information, documents, and links to a payment plan application. Parking citations, related webpages, payment plan options and supporting documents have individual compliance requirements, as per CVC 40220. Collectively they are to include the following:

- Internet webpages are “readily accessible in a prominent location on the parking citation payment section of the agency’s internet website”
- Contains clear language on how to request an indigency determination and what that determination will entail
- The documents needed by the processing agency to make an indigency determination
- Linked internet webpages to all required documents
- A telephone number for more information on the payment program
- The total amount in fines and fees that can be paid in installments is \$500
- Monthly installments can be no more than twenty-five dollars (\$25)
- The time limit for paying fines and fees under a payment plan is 24 months
- The filing deadline for a payment plan application is 120 days from notice of a violation
- All late fees and penalty assessments are waived
- Processing fees to participate in a payment plan are limited to five dollars (\$5)

METHODOLOGY

The Grand Jury evaluated 24 public ticket issuing and processing agencies in San Diego County for compliance with CVC 40220. Starting August 2021 and concluding April 2022, the Grand Jury solicited and inspected public agency parking citations; plus reviewed their public internet parking citation webpages. The agencies reviewed included 18 municipalities: Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, City of San Diego, San Marcos, Santee, Solana Beach, and Vista. The San Diego Sheriff’s Department, Sheriff’s contracted services, and five community college districts were also evaluated: San Diego, Grossmont-Cuyamaca, MiraCosta, Palomar and Southwestern.

CVC 40200.5 allows an issuing agency to contract with a private vendor for the processing of parking violation fines and fees. The vendor’s website can be linked to the issuing agency’s parking citation webpage. CVC 40200.6 requires the issuing agency to be responsible for a contracted vendor’s policy and procedure. CVC 40220 has website compliance requirements for the processing agency. The Grand Jury reviewed issuing agency webpages, their links to contracted processing services, and the contracted third-party website for compliance.

In-person interviews were conducted with agency representatives for the San Diego County Sheriff's Department, municipality police departments, college campus police departments, and city managers or their equivalents. COVID restrictions required some agencies to be interviewed by telephone. Parking citations and webpages were reviewed, and CVC 40220 compliance requirements conveyed. The interview process began in November 2021 and concluded in March 2022.

DISCUSSION

During our nine-month long investigation, the Grand Jury found that, initially, a majority of issuing agency parking violation notices, plus many processing agency websites, were non-compliant with CVC 40220 (1) (A) (ii) (I) & (II) "The availability of an installment payment plan...", and the "right to request an indigency determination..." and "the timeframe in which to apply." Individuals receiving a parking citation from a non-compliant agency would be unaware of a payment plan option. Therefore, it is difficult to determine how many violations may have qualified for an indigent payment plan, but instead were itemized and forwarded to the DMV for processing. A direct inquiry into an individual's personal income and their qualifications for payment plan, or an inquiry into DMV information on the number of holds, impounds and/or liens imposed, is outside the Grand Jury's jurisdiction.

With respect to processing agencies, the recommendations and findings contained herein are only applicable to public processing agencies given the fact the Grand Jury has no jurisdiction over private entities.

FACTS AND FINDINGS

Fact: CVC 40200.3 (a) states, "All parking penalties collected by the processing agency, which may be the issuing agency, shall be deposited to the account of the issuing agency."

Finding 1: Of the agencies interviewed, a majority are both issuing agency and processing agency. Although CVC 40220 language often refers to a "processing agency," compliance requirements are logically presumed to apply to both issuing and processing agencies.

Fact: CVC 40220 (1) (A) (ii) requires a processing agency to disclose "the availability of a low-income payment plan "a "person's right to request an indigency determination," and the "timeframe in which to apply" in both the notice of parking violation and on its public internet website, including "a web page link and telephone number to more information." ⁵

⁵ COMPLIANT PARKING CITATION (SAMPLE TEXT): CVC 40220 allows for installment payments to qualifying low-income individuals who apply within 120 days from the issuance of a notice of parking violation, or within 10 days after an administrative hearing determination, whichever is later. For more information, including about applying and determining if you qualify, please call (list issuing agency phone number) or visit our website (list URL address).

Finding 2: During our investigation, the Grand Jury found, of the 24 issuing agencies' written parking citation notices we solicited and inspected, these 11 municipalities, the San Diego County Sheriff's contracted city services, plus five San Diego County community colleges were not compliant with AB 503 or AB 3277 amended CVC 40220 requirements:

- Carlsbad
- Chula Vista
- Del Mar*
- Encinitas*
- Escondido
- Imperial Beach*
- Lemon Grove*
- National City
- Oceanside
- Poway*
- San Marcos*
- San Diego County Sheriff's Contracted Services
- Grossmont-Cuyamaca College
- MiraCosta College
- Palomar College
- San Diego Community College
- Southwestern College

*Cities using San Diego County Sheriff's Contracted Services, including issuing parking citations

Fact: The older AB 503 amended version of CVC 40220, approved September 2018, contained many of the current compliance requirements, but had a lower installment plan limit of \$300, and specified a shorter 60-day deadline for filing a payment plan application.

Finding 3: The Grand Jury considered agency parking citation notices with an AB 503 version of CVC 40220, which does notify violators of the availability of a payment plan, to be partially compliant. During our review, these eight agencies had partially compliant citations:

- Coronado
- El Cajon
- La Mesa
- San Diego County
- San Diego City Regional
- Santee
- Solana Beach
- Vista

Fact: As per CVC 40220 (1) (A) (ii) (III) and (IV), in addition to the compliance requirements for a parking violation notice, a processing agency’s public internet website must also include “clear language about how the person can request an indigency determination...” plus the “documents needed by the processing agency to make an indigency determination.”

Finding 4: During our investigation, the Grand Jury found some agencies already had AB 3277 fully compliant webpages, or AB 503 partially compliant webpages. They are:

- Chula Vista
- El Cajon
- Encinitas
- Escondido
- La Mesa
- Poway
- San Diego City
- San Diego County Sheriff
- San Marcos
- Vista

Finding 5: Website compliance revisions can be measured in real time. As of May 10, 2022, the Grand Jury found that these previously non-compliant agency websites are now CVC 40220 compliant:

- Carlsbad
- Coronado
- Del Mar
- Imperial Beach
- National City
- Oceanside
- Santee

Fact: An issuing agency that contracts with a private vendor for processing/collection services is mandated to follow the procedures of CVC 40200.6 (b) “The governing body of the issuing agency shall establish written policies and procedures pursuant to which the contracting party shall provide services.” And CVC 40200.6 (c) “The issuing agency shall be responsible for all actions taken by contracting parties and shall exercise effective oversight over the parties”

Finding 6: Contracting a processing/collection service does not excuse a public issuing or processing agency from CVC 40220 compliance requirements. The Grand Jury found these public agency websites had no informational payment plan webpages or verbiage. And/or their linked contracting vendor’s main/landing webpage did not have CVC 40220 information, or the information was not “readily accessible in a prominent location.” Therefore, as of May 10, 2022, these agencies were not compliant.

- Lemon Grove

- Solana Beach

Fact: CVC 40220 (1) (D) (i) requires state universities and community colleges to "adopt a parking citation payment plan for persons with multiple unpaid parking citations," with a policy that includes abeyance of late fees and no DMV itemization. Alternatively, CVC 40220 (1) (D) (ii) requires a "district governing board that fails to implement a parking citation payment plan pursuant to clause (i) shall implement the payment plan as provided in subparagraphs [1] (A) to [1] (C), inclusive, and subdivision (c)," (the same compliance requirements that apply to other processing agencies).

Finding 7: Four of the five community colleges interviewed by the Grand Jury did not adopt their own payment plan policy – but used CVC 40220 (1) (A) to (C). As of May 10, 2022, the Grand Jury found that these previously non-compliant websites are now compliant:

- Grossmont-Cuyamaca Community College
- MiraCosta Community College
- Palomar Community College
- Southwestern Community College

Finding 8: Community colleges that adopt their own parking citation payment plan policy must consider this compliance requirement, CVC 40220 (1) (D) (i) (III) "Each California State University and community college district campus shall post the parking citation payment policy on its internet website for students' awareness and access." With only one sentence on one webpage, with no parking citation payment policy postings, or any additional information or weblinks, the Grand Jury finds this website non-compliant:

- San Diego Community College District – San Diego City College

RECOMMENDATIONS

The 2021/2022 San Diego County Grand Jury recommends the City Manager for the cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Marcos, Solana Beach and Vista:

22-49: Revise their parking citation notices to be CVC 40220 compliant with the most recent AB 3277 amendment.

The 2021/2022 San Diego County Grand Jury recommends that the Mayor of the City of San Diego:

22-50: Revise their parking citation notices to be CVC 40220 compliant with the most recent AB 3277 amendment.

The 2021/2022 San Diego County Grand Jury recommends that the San Diego Sheriff's Department:

22-51: Revise their parking citation notices to be CVC 40220 compliant with the most recent AB 3277 amendment.

The 2021/2022 San Diego County Grand Jury recommends that Grossmont-Cuyamaca Community College, MiraCosta Community College, Palomar Community College, San Diego Community College, and Southwestern Community College:

22-52: Revise their parking citation notices to be CVC 40220 compliant with the most recent AB 3277 amendment.

The 2021/2022 San Diego County Grand Jury recommends that the City Manager for the cities of Lemon Grove and Solana Beach:

22-53: Ensure that revisions to their website be completed no later than September 30, 2022, in compliance with CVC 40220.

The 2021/2022 San Diego County Grand Jury recommends that San Diego Community College District, San Diego City College:

22-54: Ensure that revisions to their website be completed no later than September 30, 2022, in compliance with CVC 40220.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

| Responding Agency | Recommendations | Date |
|-------------------------------------|------------------------|----------------|
| City Manager, Carlsbad | 22-49 | 9/21/22 |
| City Manager, Chula Vista | 22-49 | 9/21/22 |
| City Manager, Coronado | 22-49 | 9/21/22 |
| City Manager, Del Mar | 22-49 | 9/21/22 |
| City Manager, El Cajon | 22-49 | 9/21/22 |
| City Manager, Encinitas | 22-49 | 9/21/22 |
| City Manager, Escondido | 22-49 | 9/21/22 |
| City Manager, Imperial Beach | 22-49 | 9/21/22 |
| City Manager, La Mesa | 22-49 | 9/21/22 |
| City Manager, Lemon Grove | 22-49 and 22-53 | 9/21/22 |

| | | |
|---|------------------------|----------------|
| City Manager, National City | 22-49 | 9/21/22 |
| City Manager, Oceanside | 22-49 | 9/21/22 |
| City Manager, Poway | 22-49 | 9/21/22 |
| City Manager, San Marcos | 22-49 | 9/21/22 |
| City Manager, Solana Beach | 22-49 and 22-53 | 9/21/22 |
| City Manager, Vista | 22-49 | 9/21/22 |
| Mayor, City of San Diego | 22-50 | 9/21/22 |
| Sheriff, San Diego County Sheriff's Department | 22-51 | 8/22/22 |
| President, Grossmont-Cuyamaca Community College District | 22-52 | 9/21/22 |
| President, MiraCosta Community College District | 22-52 | 9/21/22 |
| Superintendent, Palomar Community College District | 22-52 | 9/21/22 |
| President, San Diego Community College District | 22-52 and 22-54 | 9/21/22 |
| Superintendent, Southwestern Community College District | 22-52 | 9/21/22 |