

Hawai'i Access to Justice Conference
"Access to Justice and the Time of COVID"
June 25, 2021

Workshop Summary¹

**"Lifting Stoppers, Lifting Barriers"
(Re-Entry and Community Service Program)**

Presenters: Angela Kuo Min (facilitator), Judge Melanie May, Clarissa Malinao

How to sign up to volunteer:

RACS: Serena at VLSH, RACS Coordinator: serena@vlsh.org or volunteer@vlsh.org

HOP: VLSH also has HOP (Hawaii Online Pro Bono): remote assistance

- Importance of these programs:
 - From 2019 – 2020:
 - There were ~313,000 new traffic cases filed in Hawaii courts.
 - By the end of the year, there were still 144,000 cases.
 - One out of every five parking tickets issued in Hawaii within the last five years has gone unpaid.
 - There were nearly 780,000 parking tickets issued in Hawaii between January 2019 and August 2020.
 - Many people who do not pay their parking tickets simply cannot afford to do so.
 - With COVID times, even more folks have lost their jobs and have had to make tough decisions regarding which bills to pay, etc.
 - Outstanding tickets often cause stoppers. A stopper makes it so the individual cannot renew their license or registration. This in turn can cause difficulty when people need to drive in order to get to their jobs, find work, or maintain their job.

RACS:

- Last year VLSH helps 200 RACS clients.
- RACS Program: Reemployment Community Service. These are for non-felony civil infractions.

¹ This workshop summary was prepared by Maya Scimeca, Engagement Specialist, Legal Aid Society of Hawai'i.

- Imagine a person with no legal training trying to navigate the legal system—it can be very scary.
- RACS reunifies families:
 - Imagine a parents being able to get promoted or a worker being able to now get on a military base to do their job when the stopper was preventing them to do so before.
 - Also, think about families with separated parents, who must drive in order to do pick-ups and drop offs to spend time with their kids.
 - RACS also helps out the court by clearing out cases.
 - RACS is not advertised; mainly the words spreads by word of mouth and especially among those who have gone through the program.
- RACS overview:
 - When someone comes, RACS does a comprehensive search, including looking at all names under which the person may have tickets, looking at multiple cars that may have been used, and also consolidating the court location, so everything can happen downtown. This way, the fines can be consolidated and everything can be handled at one time.
 - Once the fines have been identified and the attorney knows which ones are eligible under the RACs program, the attorney then drafts a motion and files it on behalf of the client. A court hearing date is then set.
 - A volunteer attorney goes to court with the client and advocates on their behalf.
 - Never have missed a case with a volunteer attorney.
 - Often the attorney will notice additional things and may be able to lower the initial ticket amount, etc.
 - The attorney assists the client with converting the ticket(s) into community service.
 - Always upfront about who is a good candidate.
 - Don't want someone to have to walk away with 1,000 community service hours.
 - On the criminal side, it's very important for someone to have representation as well, so issues do not further spiral out of control.
 - Without representation, additional fines may be added and/or someone may start to build up a criminal record, which can add to further issues with employment.

- RACS only helps first circuit but what about folks in other circuits?
 - Program only on Oahu now.
 - On judiciary website, there is now a standard form: Motion to Convert Fines into Community Service. It is part of the court website, under the Court Forms section.
 - There is relief available to everyone

- Trivia:
 - No motor vehicle insurance ticket:
 - First time offense is \$500, second \$1,500; for both offenses there is mandatory license suspension unless person can prove they had insurance at the time they received the ticket.
 - Often we will see that someone will get the \$500 ticket and decide to pay later since they cannot afford it. Then they continue to drive, further jeopardizing themselves.
 - Driving without license:
 - Forgot license in purse: \$75 plus additional fees
 - Unlicensed driver: petty misdemeanor, up to \$1,000 or 30 days in jail.
 - If continue to commit (three offenses within a certain time period) then becomes a misdemeanor subject to up to \$1,000 fine and/or up to one year in jail.
 - Animal drawn vehicle, riding in house trailer while it is being moved, or holding person/animal/object on lap: \$97 ticket.
 - RACS also sees these.
- RACS can help since these are all considered Non-felony civil infraction.
- No insurance/unlicensed are the most common issues RACS sees.

- RACs Process:
 - VLSH helps people look up their abstracts to figure out what cases are still outstanding.
 - Then VLSH helps to prepare the motion in order to try to get the fines converted into community service.
 - When the person goes to their court hearing, the motion is routinely granted.
 - Then the person is referred to the Adult Services Branch, which oversees all community service throughout the state.
 - A proof of compliance date is set.

- If the person has completed all community service, the court takes no further action.
 - If could not complete service, folks can ask for a continuance.
 - Or if completed half of the community hours and now has employment, can pay back half the money amount.

RESTRICTED LICENSE PROGRAM – NEW:

- Restricted licenses have been allowed now for quite some time.
 - HRS 286-109: statute allows the court to lift stoppers in order for someone to obtain a restricted license.
 - Restricted licenses have two eligibility requirements:
 - 1) Individual must be gainfully employed in a position that requires driving and would be fired if they cannot continue to drive.
 - 2) Applicant lacks access to alternative transportation and must drive to get to work.
 - This is seen more in rural areas, especially on neighbor islands.
 - Since this program doesn't require community service, it is sometimes a better option for folks on Oahu and on the neighbor islands.
 - HRS 291D-12: Powers of the DC Judge sitting in the traffic division. As of November 1, 2020, pursuant to act 59 (2020), this statute allows DC judges to remove driver's license stoppers and/or motor vehicle stoppers for eligible court judgments.
 - Does NOT allow folks to avoid having to take road tests in order to get their licenses reinstated but DOES allow to potentially clear up stoppers so folks can get back on track and in line to get their licenses reinstated.
 - Especially now with COVID, there have been longer lines and wait times for people to take the tests or schedule appointments with the DMV.
- Process:
 - Come to court; court makes an assessment re: what monthly payment plan would look like.
 - Program allows folks to clear up stoppers so they can get on the path to taking the road test and get a new license.

- If granted restricted license, person would make on-time payments or could sometimes convert to community service.
 - Cannot get additional tickets or traffic arrests when part of the program.
 - Must maintain current employment status/report any changes to employment status.
 - Must surrender physical license when get restricted license
- Exclusions:
 - If someone has a current sentence in which license was revoked/suspended.
 - Ex. DUI.
 - Administrative suspension.
 - EX. Outstanding CS debt.

HOUSE BILL 2750

- October 2020 House Bill 2750 was passed.
 - Later codified as Act 59.
 - Addresses license stoppers for parking tickets and traffic infractions.
 - Any traffic infraction/parking tickets issued from November 2020 onward do not generate stoppers. The fines can still go to collections and folks receiving citations still need to fulfill their obligations, however these cases now do not generate automatic stoppers.
 - Offered immediate relief for those affected by court closures/changes in hours due to COVID.
 - Folks with license stoppers issued before the bill was passed can also request for the court to lift their stoppers.
 - Only applies to parking tickets and routine traffic tickets; does not apply to things like DUIs, reckless driving, or anything else that is considered a traffic crime.
 - Keep in mind that this only allows you to try to remove the stopper, but does not deal with the fines, potential jail time, etc.
 - Fines and balances still remain on the person's record.
 - VLSH worked with judiciary to create a fillable form petition which is available on the VLSH website.
 - Need to know case number, name, how much ticket costs in order to fill out and file.

- No filing fee.
- Also have FAQ available on VLSH website, which explains how to obtain driving abstract, etc.

Being a Volunteer Attorney

- Areas where help is needed:
 - Volunteer attorneys to attend court with clients.
- Clarissa Malinao:
 - Former public defender.
 - Large segment of community where having driver's license is truly a privilege that means being able to sustain basic needs.
- For new attorneys who may not necessarily have court background:
 - There is mentorship available. Many current attorneys who are volunteers come from a wide range of backgrounds.
 - Only condition is for attorney to legally be able to practice law.
 - No courtroom experience necessary; could be a fun, new experience for lawyers who spend most of their time in-office.
- RACS:
 - Typically the attorney would have two to four clients for a particular court day.
 - Motion is singular: all-encompassing to request for all charges with outstanding fines/fees to be converting into community service. The individual may have more than one case being dealt with but they are all addressed at one time, even if they originated within different courthouses.
 - May have three cases for the one client – but they are all extracted and combined into one.
 - For RACS: these are traffic infarctions, civil in nature. No requirement to know HRS criminal statutes.
 - Very little can go wrong in a RACS hearing. These are not going to impact client's life negatively. Good way for the attorneys to get feet wet with courtroom experience.
 - Clarissa: Why volunteer for RACS? Even absent of COVID, we still should have a consideration to help our community. Clarissa assisted a single mother who had many cases. She was trying to care for both herself and her children. She had repeatedly tried to seek gainful employment but, due to unfortunate circumstances related to her health, she could

not continue on with her employment. She fought her medical condition. By the time she got to court and the judge granted request to allow community service, she cried. When she got back to court and had completed her service, she cried because it meant so much to her. This had affected her ability to function in society, which speaks to value—she could now feel valued and that she could function and be a valuable part of her community. These are the experiences that make it very rewarding to volunteer for programs like RACS. And these programs allow you to meet and talk with people you would likely never meet otherwise.

- Angela: always hears about how the clients are so thankful. Even if we cannot help in a certain area of law but we direct them to another resource, they are still grateful to be listened to and heard. Often these individuals have been turned away many times already.

CHANGES DUE TO COVID and OTHER CHALLENGES

- Community service: several Oahu locations are still taking in-person community service.
 - During the pandemic, the Adult Services Branch forged relationship with Smithsonian Institute, so some eligible candidates could do service remotely, via transcription.
 - This is virtual community service.
 - Community service options for those with limited English proficiency?
 - Court provides language assistance when people meet with Adult Services Branch, if they need it.
 - Can place them somewhere where language skills are not a component of work.
 - Sometimes can use their native language as part of their service.
- Remotely held hearings:
 - Many District Court shorting proceedings, such as arraignments, traffic infractions, pretrial conferences are being held remotely.
 - Limitations since not everyone has reliable internet/technology to allow for these kinds of interactions with the courts.
 - For those without technology allowing them, can submit request to meet in person.
 - Advisable to request in advance due to volume of cases.

- Allows court to make sure there are only X number of people in court at any given time.
 - RACS: now these cases are heard usually every 3rd Thursday, typically by the same judge.
 - Allows court to be able to accommodate both those appearing remotely and those who need to be there in person.
 - Can always request interpreter in court.
 - This can be another way for people to start a dialogue with court.
 - Ex. If need more time to complete community service, easier to speak with the same Judge.
 - Also allows volunteer attorneys more bang for buck—helping many people on the same day.
- Eviction moratorium impact:
 - Judge May does not anticipate the impending lifting of the eviction moratorium affecting the RACS hearings.
 - Court calendars will be carefully balanced in order to accommodate the many kinds of cases the court must hear.
- ADLRO Driver's License revocation:
 - ADLRO revocation is separate from the tickets/stoppers. Clearing stoppers/converting fines does not speed up process to get new license.
 - What RACS offers is chance to be able to start process to get a new license immediately, upon the completion of the service and the clearance of the fines.
- Community Outreach Court: does the outreach court have a better deal than RACS? Difference between RACS hearing, outreach court, or better for certain situations?
 - Community outreach court is really focused on serving houseless folks in order to help them clear their criminal cases and also to provide wraparound services to get these individuals a fresh start, hopefully in an environment offering them temporary or more stable housing.
 - RACS helps more broadly public: the single moms, the veteran, the college student, etc.
 - RACS addresses many more people than the Community Outreach Court does.
 - The way the two courts look at traffic issues and how they are resolved them is very different.

- There is no way to volunteer at the Community Outreach Court. RACS, on the other hand, is handled completely by volunteer attorneys.
 - Community Outreach Court is handled by prosecutors, public defenders, and social workers.
- What about clients who want help from RACS but have tickets they believe they did not incur?
 - Ex. Buying car from someone who incurred the tickets.
 - This comes up when the VLSH staff does the research.
 - Can only base off of the court record on ekoakua.
 - Up to person whether or not they choose to take responsibility.
 - If they feel some tickets are not theirs, RACS hearing can address just the tickets the person believes are truly theirs.
 - Sometimes people are unsure when they purchase the car, for example, so they choose to include all of the tickets even if some may not be theirs.