

# Civil Infraction Informal Hearing Checklist

- Examine the case file. The contents should include the following:
  - Court copy of citation.
  - [SCAO Form CIA 01](#) (Notice to Appear).
  - [SCAO Form CIA 02](#) (Judgment).
  - Incident report (optional).
  - Driving record (optional).
  - Police accident report (optional).
- Call the case.
  - Call the parties' names.
  - Ask the parties and witnesses to come forward.
  - Ensure that all parties and witnesses are present.
  - If the defendant is not present, enter a default judgment against him or her. [MCL 257.748](#); [MCL 600.8723](#); [MCL 600.8823](#); [MCR 4.101\(B\)](#).
  - If the citing officer is not present and the court was not notified of an emergency preventing his or her appearance, dismiss infraction without prejudice. [MCR 4.101\(C\)\(2\)](#).
- Explain the proceeding.
  - Introduce yourself to those present.
  - Identify the citing officer and defendant.
  - Explain the purpose of an informal hearing.

- Explain the procedures (such as taking testimony, questioning, decision-making, sanctioning, and right to appeal) to be following in an informal hearing.
- Answer any questions relating to the hearing.
- Read the charge.
  - Read the citation number, defendant's name, and the date, time, and location of the alleged civil infraction.
  - Read the applicable statutes or regulations.
  - Ask whether the defendant understands the charge.
  - If the defendant does not understand the charge, explain further.
  - Determine whether the defendant still intends to deny responsibility.
  - If the defendant admits responsibility, impose sanctions; otherwise, continue.
  - Ask officer and defendant if they are ready to proceed.
- Administer the oath. See [MCL 257.746\(1\)](#); [MCL 600.8719\(1\)](#); [MCL 600.8819\(1\)](#) (all three statutes provide that district court magistrates may administer oaths).
  - Swear in all parties and witnesses at once.
  - Ask all present to be seated.
- Take evidence. See [MCL 257.746\(1\)](#); [MCL 600.8719\(1\)](#); [MCL 600.8819\(1\)](#) (all three statutes provide that district court magistrates may examine witnesses).
  - Request and take the plaintiff's (citing officer's) testimony.
  - Request the plaintiff's witnesses' testimony.
    - Identify the witnesses' relationship to the case.
    - Take the witnesses' testimony.
    - If the defendant has questions, direct them to the officer. To maintain control, do not allow the defendant to question the officer directly.
  - Request and take the defendant's testimony.
  - Request the defense witnesses' testimony.

- Identify the witnesses' relationship to the case.
- Take the witnesses' testimony.
- If the officer has questions, direct them to the defendant. To maintain control, do not allow the officer to question the defendant directly.
- If necessary, determine additional facts by questioning the citing officer, the defendant, and the witnesses.
- Decide the case. See [MCL 257.746\(1\)](#); [MCL 600.8719\(1\)](#); [MCL 600.8819\(1\)](#) (all three statutes provide that district court magistrates may make findings of fact and conclusions of law at an informal hearing).
  - Recite the facts not in dispute.
  - Give and explain your decision regarding the disputed facts.
  - Relate the facts to the applicable statutes or ordinances.
  - State your decision (responsible as charged, responsible for a lesser included offense, not responsible).
  - Give the reasons for your decision.
- If you found the defendant **not** responsible:
  - Advise the defendant of the plaintiff's right to appeal. See [MCL 257.746\(5\)](#); [MCL 600.8719\(5\)](#); [MCL 600.8819\(5\)](#) (all three statutes provide that the plaintiff or defendant may appeal an adverse judgment entered at an informal hearing).
  - Dismiss all parties and witnesses.
  - Ensure that all clerical work connected with the case will be completed.
- If you found the defendant responsible:
  - Advise the defendant of the right to appeal. See [MCL 257.746\(5\)](#); [MCL 600.8719\(5\)](#); [MCL 600.8819\(5\)](#) (all three statutes provide that the plaintiff or defendant may appeal an adverse judgment entered at an informal hearing).
  - Dismiss the citing officer and witnesses.
  - Review the defendant's driving record if presiding over a traffic civil infraction (optional).

- Determine what sanctions will be imposed.
- Impose the sanctions and inform the defendant. See [MCL 257.746\(4\)](#); [MCL 600.8719\(4\)](#); [MCL 600.8819\(4\)](#) (all three statutes provide that district court magistrates must impose sanctions upon a determination by a preponderance of the evidence that the defendant is responsible for a civil infraction).
- Determine whether the defendant can pay the civil fines and costs.
- If the defendant cannot pay, make alternate arrangements.
- Ensure that [SCAO Form CIA 02](#) (Judgment), is completed.
- Ensure that a copy of the judgment is handed to defendant.
- Dismiss the defendant.
- Complete case processing.
  - Ensure that the records of your magisterial activity are updated.
  - Call the remaining cases and repeat the above steps.
  - Ensure that a Form DS1-22, Abstract of Conviction and Court Order, is completed for each defendant found responsible for an offense that must be abstracted (For traffic civil infractions).