

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).