

Civil Infraction Appearance in Person or by Representation Checklist

- Schedule the respondent's appearance.
- Prepare for the explanation.
 - Prepare hearing room.
 - Examine case file for completeness. The case file will contain the court copy of the citation. It also may contain a copy of the incident report, and in a traffic civil infraction case, it may contain the police accident report and the respondent's driving record.
 - Check for material defects.
 - Citations must be signed by the citing officer. [MCL 257.742\(1\)](#); [MCL 600.8705\(3\)](#); [MCL 600.8805\(3\)](#).
 - A speeding citation must specify the speed at which the respondent is alleged to have driven and the speed limit applicable at the location. [MCL 257.633\(1\)](#).
 - Other material defects may include (1) the incorrect identification of the respondent, (2) incomplete or incorrect identification of the offense, (3) failure to specify the location of the offense, (4) failure to specify the date of the offense or (4) inclusion of an incorrect date.
- Verify the respondent's identity by asking the person before you whether he or she is the individual named on the citation, or whether he or she is representing the individual named on the citation.
- Read the charge(s) from the citation and ask whether the respondent understands the charge(s). If the respondent

does not fully understand, explain further to make the charge(s) clear.

- Explain possible responses to the charge(s) (admission, admission with explanation, and denial), and again ask the respondent how he or she wishes to respond. Make sure the respondent understands an admission with explanation will not result in dismissal of the citation; only a denial can lead to this result.
- If the respondent is charged with multiple offenses on a multi-charge citation, ask if he or she has appeared to respond to the other charges. If the respondent has not appeared on the other charges, explain that a separate response is necessary for each charge.
- Determine whether the respondent has admitted responsibility.
 - Ask for the respondent's explanation.
 - Determine whether the respondent is admitting facts that constitute responsibility for the infraction.
 - Consult the statute or ordinance that creates the infraction to determine the elements of the civil infraction.
 - If the respondent denies responsibility, schedule a formal or informal hearing. See [MCR 4.101\(F\)\(1\)](#).
- Evaluate the respondent's explanation.
 - Distinguish between explanations that mitigate the respondent's circumstances and justify a reduction in sanctions, and explanations that contest elements of the offense or otherwise excuse the respondent from responsibility.
 - Decide whether to reduce the applicable sanctions. See [MCL 257.745\(4\)](#); [MCL 600.8715\(4\)](#); [MCL 600.8815\(4\)](#) (all statutes state a magistrate may consider the respondent's explanation by way or mitigating any sanction).
 - Note that for a traffic civil infraction, the court must still send an abstract of the judgment to the Michigan Secretary of State upon a finding of responsibility, regardless of the sanctions imposed. [MCL 257.732](#). Further, a court has no authority to reduce the number of points the respondent will receive for an offense from the Michigan Secretary of State. [MCL 257.732](#); [MCL 257.320a](#).

- If the respondent appears to contest elements of the offense or offer an explanation that would otherwise completely excuse him or her from responsibility, a formal or informal hearing should be held.
- District court magistrates do **not** have authority to enter a not-responsible judgment or dismiss a citation. See [MCL 257.745\(3\)-\(4\)](#); [MCL 600.8715\(3\)-\(4\)](#); [MCL 600.8815\(3\)-\(4\)](#).
- Enter judgment. When the respondent has admitted responsibility, enter a judgment that finds the respondent responsible for the citation and impose the appropriate sanctions. [MCL 257.907](#); [MCL 600.8727](#); [MCL 600.8827](#). See also the Michigan Judicial Institute's [table](#) comparing civil infraction procedures and sanctions.
- Prepare an order on [SCAO Form CIA 02](#) (Judgment). File the original judgment with the court and give copy to the respondent.
- After judgment is entered, give the case file to the court clerk.

