

MISDEMEANOR CASE PROCESSING OUTLINE

- A. Interim bond received prior to the court receiving a complaint or citation.
1. The clerk files the bond paperwork in a Group File awaiting the filing of a C&W or citation and the arraignment date.
 2. A pre-determined schedule of interim bonds may be established by the court.
- B. Court receives the Complaint and Warrant (C&W) from the prosecutor, or a Uniform Law Citation.
1. A Complaint requires a prosecutor's written approval and authorization by a judicial officer or, if authorized by the judge, a court clerk. A Warrant must be authorized by a judicial officer. MCR 6.101
Exception: MCR 6.101(C) allows a complaint without a prosecutor's written approval if security for costs is filed with the court.
 2. A Uniform Law Citation (ULC) is a complaint, and may be filed for most offenses with penalties of 93 days or less. MCL 764.9f, 764.1e, MCR 6.615.
 - a. A ULC may not be filed for a domestic violence offense. MCL 764.9f.
 - b. The prosecutor may require that some or all misdemeanor citations be approved by the prosecutor before filing with the court.
 3. The clerk endorses the date on which the Complaint is authorized by the judicial officer or clerk, or the citation filed. MCR 8.119(C) and Case File Management Standards, Component 3. Complaints authorized after hours or on weekends should be date stamped according to the date the authorization occurred.
 4. Clerk assigns case to judge by lot or according to Local Administrative Order. MCR 8.111(B)
 5. Clerk assigns a case number with current year prefix and case type code. MCR 8.119(D)(1) and MCR 8.117, and Case File Management Standards, Components 1 and 2.

SM	Statute non-traffic misdemeanor
OM	Ordinance non-traffic misdemeanor
SD	Statute OWI ¹ misdemeanor
OD	Ordinance OWI misdemeanor
ST	Statute traffic misdemeanor other than SD cases
OT	Ordinance traffic misdemeanor other than OD cases
 6. Clerk reviews paperwork for additional information and records information:
 - a. Paper plate and VIN on Repeat Offender cases.
 - b. Whether fingerprints have been taken on offenses with penalty greater than 92 days (other than DWLS). MCL 28.243 If fingerprints were not taken, clerk may prepare Order for Fingerprints, MC-233, for judicial officer [Also see (d) below.]
 - c. CTN (Criminal Tracking Number) from the C&W if charged under statute.

¹ The term "OWI" includes all operating while intoxicated and related offenses under the Michigan Vehicle Code (MCL 257.625), Railroad Code (MCL 462.2353), Marine Safety Act (MCL 324.80176), Off-Road Recreational Vehicle Act (MCL 324.1134), and Snowmobile Act (MCL 324.82127). See individual statutes for reference.

- d. TCN (Transaction Control Number) if charge is submitted via ULC, or if C&W is submitted by city or township attorney, and court has documentation containing a TCN indicating fingerprints were submitted to MSP via live-scan. These arrests are recorded by MSP as a “record build;” the court must submit a disposition regardless of penalty (number of days jail).
 - e. Driver record and/or CHR, depending on local practice
 - f. Interim bond
 - 7. Clerk enters case in case management system.
 - a. Multiple charges on a citation are recorded as separate cases.
 - b. Multiple counts on a complaint & warrant are recorded as counts on a single case.
 - 8. Defendant not in custody
 - a. Issue either a warrant or a summons (MC 256). MCL 764.1; MCR 6.102(C) or MCR 6.103.
 - b. Record the issuance of a warrant so as to inactivate the case on the caseload report and stop the case from aging for Time Guidelines.
 - c. Warrant entered into LEIN by court or forwarded to law enforcement for entry.
 - 9. Defendant not arrested; Uniform Law Citation (ULC) issued.
 - a. Calendar arraignment date from citation.
 - b. May issue notice to appear depending on local practice.
 - c. If OWI case, arraignment must be within 14 days from arrest or arrest date of reissued warrant. MCL 257.625b
 - 10. Defendant previously arrested and posted interim bond.
 - a. Enter interim bond information into case management system if available.
 - b. Calendar arraignment date from bond.
 - c. May issue notice to appear depending on local practice.
 - 11. Defendant in custody. Follow local practice regarding arraignment date.
- C. Defendant is arrested on outstanding arrest warrant. MCR 6.102(D-F)
 - 1. Interim bond posted.
 - a. Court receives and receipts the bond.
 - b. If bond received without warrant, clerk initiates a warrant recall, form MC-220, or cancels warrant in LEIN if court-entered.
 - c. Follow procedure in B.10.
 - 2. Interim bond not posted; defendant in custody. Follow local practice regarding holding arraignment.
- D. Arraignment
 - 1. A verbatim record is required. MCR 6.104(F)
 - 2. Conducting an arraignment on a warrant triggers the case to become active on the caseload report and starts the case aging for Time Guidelines.
 - 3. Defendant fails to appear. [Follow procedure in Section L.]
 - 4. Defendant pleads Guilty or No Contest (Nolo Contendre).
 - a. Report disposition as Plea on caseload report.
 - b. If charge is a "serious misdemeanor" as defined by MCL 780.811, and the defendant pleads guilty or no contest, within 48 hours the clerk must notify

the prosecuting official of the plea and next scheduled court date. MCL 780.816. Form DC 255.

- c. Defendant may be sentenced forthwith (except when a serious misdemeanor, see 4.b., above) or scheduled for sentencing at a later date.
 - 1) If OWI, sentencing must occur within 77 days of arrest. MCL 257.625b
 - 2) A Substance Abuse Screening and Assessment is required before sentencing for a violation of MCL 257.625 or a substantially corresponding local ordinance. MCL 257.625b(5)
 - d. Deferred Entry of Judgment
 - 1) If plea under HYTA (Holmes Youthful Trainee Act, MCL 762.11), complete form MC-242. Flag case and computer record as Non-Public Record.
 - 2) If plea under Michigan Liquor Control Code (Minor in Possession of Alcohol, MCL 436.1703), flag case and computer record as Non-Public Record.
 - 3) If plea under Controlled Substance Act (MCL 333.7411) or Spouse Abuse Act (MCL 769.4a), case remains public.
 - 4) Probation Department completes Order of Probation (except for HYTA cases), MC-243, and checks deferred judgment appropriate box.
 - 5) Report disposition as deferred to MSP. Also report MIP deferred to SOS.
 - 6) If case later dismissed, update or maintain case and computer record as Non-Public Record.
 - (a) Submit dismissal to MSP CJIC, or SOS, as applicable.
 - (b) An Order to Destroy Fingerprints is not applicable for these dismissals; MSP maintains a fingerprint-based non-public record.
 - e. Sentencing Delayed (MCL 771.1)
 - 1) Complete Order Delaying Sentence (MC-294).
 - 2) Report conviction to SOS and MSP, as applicable. For MSP, include notation that sentence is delayed under MCL 771.1.
5. Defendant pleads Not Guilty or Stands Mute.
- a. Bond is set, either through Interim Bond schedule or at arraignment. MCR 6.106
 - 1) If court sets cash bond, court must also allow surety bond for full amount.
 - 2) If court allows a cash-10% bond, surety bondsman may post ¼ of the full amount of the bond.
 - b. Bond not posted.
 - 1) Defendant remanded to jail; form MC-240.
 - 3) Court must monitor misdemeanor defendants in custody for possible bond review and release when pre-trial incarceration is approaching 28 days. MCR 6.110(C)
 - c. Bond posted. Defendant is released and bond is receipted and recorded in case management system. Court prepares MC-241.

- d. Bond may contain conditions for the protection of a named person. MCR 6.106(D). The clerk must complete the LEIN copy of Order of Pretrial Release (form MC-240) for submission to arresting agency and entry into LEIN, or court may enter into LEIN. MCL 765.6b
 - 1) Defendant violates conditional release and is arrested and brought before court on violation
 - (a) Court receives complaint on violation of conditional release.
 - (b) If agency or officer believes it is safe to do so, defendant may have been released on bond.
 - (c) Court conducts hearing on complaint of violation.
 - (d) If bond is modified, clerk enters details in case management system
 - (e) If bond is revoked, clerk initiates cancellation form MC-239 to remove the conditional bond from LEIN.
- e. If fingerprints were not previously taken, judicial officer orders prints. MC-233, Order for Fingerprints provided to defendant.
- f. Clerk enters arraignment detail to activate case for Time Guidelines.
- g. Next appearance date set and notices prepared; pretrial, pre-sentence investigation appointment, or sentencing.
 - 1) If OWI case, pretrial must be within 35 days of arraignment or 42 days in multi-county districts. One adjournment per party, not to exceed 14 days allowed. MCL 257.625b

E. Amended Complaint

- 1. Prosecutor files amended complaint, which may include a Nolle Prosequi for one or more original counts.
- 2. Clerk disposes counts as appropriate, and adds new counts as appropriate.
- 3. The case type code does not change because of an amended complaint.

F. Pre-Trial.

- 1. Defendant agrees to plead guilty. Defendant may be brought before a judge for entry of plea, or plea may be scheduled for a later date. [Follow procedure in D.4.]
- 2. Defendant requests trial.
 - a. Clerk schedules case for jury selection or jury trial, as applicable, unless the defendant has waived a jury trial in writing. MCL 763.3
 - b. If OWI case, trial must be scheduled and adjudicated within 77 days of arrest or reissued warrant. MCL 257.625b
 - c. Cases not adjudicated within 126 days are reported to State Court Administrative Office on Delay in Criminal Proceedings report. MCR 8.110(C)(5)

G. Trial or Other Disposition

- 1. Report disposition, including dismissals, nolle prosequi, etc., to MSP CJIC on all cases for which fingerprints were previously submitted.
 - a. MSP will automatically destroy fingerprints and arrest/charge information if no other conviction is on defendants records when a case is dismissed by Nolle Prosequi, or Order of Acquittal/Dismissal; no Order for Destruction of

Fingerprints is necessary. However, when a prior conviction is on the defendant's criminal history record, and the case is dismissed by Nolle Prosequi, or Order of Acquittal/Dismissal, an Order is necessary for MSP to destroy the fingerprints and the arrest, charge, and disposition segment.

2. Report disposition to SOS, if applicable. MCL 257.732
3. Prosecutor files Motion and Order for Nolle Prosequi, MC 263.
 - a. Report disposition as Dismissed by Party on caseload report.
 - b. Bond returned. Court retains 10% of amount posted if amount posted was 10%. MCR 6.106(I)
4. Defendant found not guilty.
 - a. Report disposition as Jury Verdict or Bench Verdict on caseload report.
 - b. Complete Order of Acquittal/Dismissal for judge's signature. MC 262
 - c. Bond returned. Court retains 10% of amount posted if amount posted was 10%. MCR 6.106(I)
5. Defendant found guilty.
 - a. Report disposition as Jury Verdict or Bench Verdict on caseload report.

H. Sentencing

1. If originally charged as felony, specified or serious misdemeanor, assess one \$50 crime victim fee per case, and one \$45 state minimum cost for each count convicted. All other misdemeanors assess one \$40 state minimum cost per count convicted.
2. Judicial officer must date and sign a Judgment of Sentence (MC-219) within 7 days. MCR 6.427
3. Cancel conditional bond for the protection of a named person from LEIN. MC 239
4. If defendant sentenced to jail, two copies of Judgment of Sentence, MC-219; one for jail, one for defendant.
5. If defendant placed on probation, Order of Probation (MC-243) prepared by probation department and filed with the clerk.
6. If judge establishes conditions of probation for protection of a named person, submit copy of Order of Probation to law enforcement for entry into LEIN, or court may enter. Coordinate entry into LEIN with the probation department.
7. If OWI or Repeat Offender case, send sentencing information to SOS. MCL 257.625i
8. If drug offense, send conviction abstract to SOS, Offense Code 9200. 257.732(4)(e)
9. Return bond to third party poster (less 10% if appropriate), or if posted by defendant, apply to fines and costs (less 10% if percent bond posted). MCR 6.106(I)(1) and (3).

I. Contempt Outside the Presence of the Court, MCR 3.606, or Violation of Probation, MCR 6.445

1. Court issues an Order to Show Cause, MC-230, with a date to appear, or issues a Bench Warrant.
2. Contempt or Probation Violation are not counts or charges and may not be added as such. Disposition of contempt or Probation Violation is not reported to MSP.
3. If judicial officer orders bond forfeited, follow procedure in Section L.
4. At arraignment on a probation violation the probationer must receive written notice of the alleged violation. If probationer pleads not guilty:
 - a. Probationer has right to a hearing within 14 days of arraignment or be released from custody pending hearing.

- b. If alleged violation is based on a criminal offense that is a basis for a separate criminal prosecution, the court may postpone the hearing for the outcome of that prosecution.

J. Appeal. MCR 7.101

1. Appellant files claim of appeal in Circuit Court.
 - a. Appellant must file copy of Claim of Appeal in District Court and pay \$25 filing fee. MCL 600.6536
2. Appellant must follow all other steps as required by court rule and outlined in Claim of Appeal Worksheet (form DC 53, appeal by leave, or DC-54, appeal by right).
3. If appeal perfected, clerk completes Order of Transmittal/Certification of Records (form MC-57) and attaches all required documents for transmittal of file to Circuit Court, accompanied by a copy of Bond on Appeal form MC-56.
4. If appeal not perfected, clerk completes Order Dismissing Appeal, MC 61.
5. If case returned to District Court, report as Reopened on caseload report, and schedule for hearing, as applicable.

K. Payment Received.

1. Payment applied with receipt for payer, case file², and audit. Michigan Court Administration Reference Guide, Section 6-05-08.
2. If restitution or crime victim assessment ordered, ½ of each payment is applied to these victim payments unless:
 - a. Payor requests entire payment applied to restitution, or
 - b. Payor does not specify a case number and defendant has more than one case. If restitution is owed on any case, the payment must be applied to the case with unpaid restitution.
 - c. Restitution is for a non-victim (3rd party reimbursement). This party is not entitled to the 50% priority; payment shall fall under “assessments and other payments.” MCL 775.22.

² Filing receipts in a case file is optional, based upon local court preference.

L. Failure to Appear:

1. If defendant fails to appear for pre-adjudication hearing, bench warrant issued.
 - a. Case is reported as Inactive on caseload report. MCR 3.606, MCR 6.620(B)
 - 1) Costs for contempt (i.e. warrant fee or cost) may accrue after the person appears before a judge and is found in contempt.
 - 2) Cost to compel appearance (i.e. late fee) may accrue when defendant fails to appear.
 - b. Clerk prepares Order Revoking Release and Forfeiting Bond, Notice of Intent to Enter Judgment, MC-218, for judicial officer signature.
 - 1) If surety bond, follow procedure in SCAO Administrative Memorandum 2007-05. Include date of hearing on MC-218.
 - 2) Copies set to defendant, and third-party poster or surety, as applicable.
 - c. Calendar for 28 days for possible appearance. If no appearance, disburse bond as forfeited, and prepare Judgment after Bond Forfeiture, MC-238. MCR 6.106(I)
 - 1) If surety bond, judgment against surety is for $\frac{1}{4}$ the full amount of the bond, and balance against the defendant.
2. If OWI or MIP offense, immediately send 7-day Notice of Non-Compliance, MC-216a to defendant. If no response after 7 days, send FAC notice of suspension to SOS. MCL 257.321a(3)
3. If any other offense reportable to SOS, 28 days from hearing date the clerk mails a 14-Day Notice, MC-216, to defendant. If no response after 14 days, send FAC notice of suspension sent to SOS. MCL 257.321a(3)

M. Failure to Comply with Judgment:

1. If Defendant fails to pay fines and costs, Bench Warrant issued. MCR 3.606
 - a. Costs for contempt (i.e. warrant fee or cost) may accrue after the person appears before a judge and is found in contempt.
 - b. Cost to compel appearance (i.e. late fee) may accrue when defendant fails to appear.
2. If OWI or MIP offense, 14 days after failure to comply a 14-Day Notice is mailed to defendant. If no response after 14 days, send FCJ notice of suspension to SOS. MCL 257.321a(3)
3. If any other offense reportable to SOS, 28 days from date of failure to comply, send defendant a 14-Day Notice. If no response after 14 Days, FCJ notice of suspension sent to SOS. MCL 257.321a(3)
4. 56 days from payment due date, 20% Late Penalty added to unpaid court ordered assessments. Penalty not calculated against unpaid restitution. MCL 600.4803

N. File review at conclusion of case:

1. Assure all warrants are contained in case file.
2. Assure all bonds or probation orders with conditions for the protection of a named person have been cancelled from LEIN.
3. Review case for outstanding bonds.

O. Application to Set Aside Conviction: MCL 780.621

1. Defendant completes Application to Set Aside Conviction form (MC-227).
2. Clerk sets hearing date no earlier than 60 days.
3. Court must adjourn and reschedule hearing if report not received from MSP.
4. If Order to Set Aside Conviction, MC-228, is entered, court notifies relevant state and local agencies.
 - a. An Order to Destroy Fingerprints is not applicable for convictions set aside; MSP maintains a fingerprint-based non-public record.
5. Court flags case file and computer record as Non-Public Record.