



Traffic ODR Checklist

This document is designed to assist a court interested in implementing online dispute resolution (ODR) for traffic citations (including parking and possibly other non-moving civil infractions or minor misdemeanors). The checklist below represents best practices in process design and ODR implementation and should be used as a guide and comparison point for current processes during planning for ODR.

(1) Case Workflow Landscape

- a. Currently, are individuals who receive citations allowed to plea responsible (or guilty) through traditional mail, facsimile, or other electronic means? In other words, in a manner that does not require an in-person appearance or “wet” signature?
- b. Are attorneys allowed to enter pleas on behalf of their clients? If so, how will the ODR system distinguish between the cited individual and their counsel?
- c. When a commercial motor vehicle is involved, can a company representative enter a plea instead of the original driver (assuming that the original driver was cited and not the vehicle owner)?
 - i. If so, how will the ODR and court’s case management system (CMS) distinguish between the driver and non-attorney representative?
 - ii. If so, how does the court assign financial responsibility for the related fine and follow up in the event of nonpayment?
- d. How many different law enforcement agencies file citations in the court [state or commonwealth, county, local (or tribal if it’s a tribal court)]? Who will be a part of the ODR program?
- e. What case types (e.g., compliance, parking, minor traffic citation, minor civil infraction, and the like) and from which agencies will be eligible for ODR?
- f. Is there stakeholder “buy-in” by the local prosecutors or law enforcement officers who will be using the ODR system?
- g. Is it the local practice for *local prosecutors* or *law enforcement officers* to engage in **plea negotiations** over citations?
- h. Is it the local practice for *local prosecutors* or *law enforcement officers* to engage in **time to pay** requests?

- i. Or, is that left to the discretion of the assigned judicial officer?
 - ii. Or, is that left to the discretion of designated court staff?
- i. What happens if a person wishes to plea responsible to the original charge(s) but simply requests time to pay or a payment plan?
- j. Will ODR be mandatory or voluntary?
 - i. If mandatory, what exemptions will be available (ADA, LEP, lack of internet access, digital proficiency)? Are there criteria that must be met to be eligible for an exemption, or may anyone choose to opt-out?
 - ii. How will the respondent learn about requesting an exemption?
 - iii. How will a respondent request an exemption?

(2) ODR Platform Landscape

- a. How will the ODR platform be funded? Each jurisdiction has its own unique budgeting, fund disbursement, fee assessment, and contracting limitations. This list is not intended to suggest that all of the options are available to all courts.
 - i. Will a third-party vendor receive a portion of the collected fines/costs? If so, is there existing legal authority for the arrangement?
 - ii. Will there be a flat license fee? If so, has it been budgeted?
 - iii. Will a fee be assessed to court users?
 - a. If so, is there existing legal authority to impose it?
 - b. If so, what are the fee waiver provisions for those unable to pay?
 - a. How and when is the fee waiver process conveyed?
- b. Can the ODR system accommodate those requiring LEP or ADA accommodations?
 - i. If so, how will users be informed?
 - ii. If not, what will the ODR system convey to users requiring LEP or ADA accommodations?
- c. What forms of payment will the ODR system accept and how is that communicated?
 - i. Is there a cash option for the unbanked?

- d. Will an individual's driving or court record history influence whether a citation is eligible for ODR? (Just as it may influence eligibility for lesser-offense plea offers.)
 - i. If so, will the ODR system be able to automatically screen for ODR eligibility?
- e. Will ODR also be available for defaulted civil infractions?
 - i. If so, how will that be managed?

(3) Notice of ODR Availability and Eligibility

- a. What are the time gaps between when:
 - i. A citation is issued.
 - ii. The citation is filed with the court.
 - iii. The citation information is entered into or uploaded to the court's case management system and available to the public for ODR.
- b. Will the printed (or electronically delivered) citation include information about:
 - i. ODR availability including website address.
 - ii. Clarification of the case types eligible for ODR.
 - iii. ODR exemptions.
 - iv. The period when the citation can be accessed in the ODR system.
 - v. The deadline for when ODR can be requested.
- c. If information is not provided on the citation, where/how can individuals access information about ODR (online, in-person, or both)?
 - i. Will the citation direct them to this information?
 - ii. Will the citation direct them to any self-help resources?
- d. How will participants learn about the possible consequences of the legal process?
- e. Are court clerks trained to explain ODR to individuals who contact the court in person, over the phone, or through email?
- f. How long after the citation is issued does a person have to sign up and request that the citation be handled through ODR?

(4) ODR Request and Process

- a. Is the ODR system accessible and fully featured on a mobile device?
- b. Will the ODR landing page include information on self-help resources? If so, what (online, telephone, or other)?
 - i. What relevant self-help information already exists, and where is it located?
 - ii. Who owns it and is responsible for updates?
 - iii. Does it need to be modified to include information about ODR?
- c. When a person goes online to request ODR, will the ODR system inform the person if their matter is eligible for ODR? If the citation is not eligible, what will be conveyed to the person?
- d. How will the court learn when an ODR request has been made?
 - i. Will the court screen the ODR request before it's reviewed by the local prosecutor or law enforcement? (For example, what if the person accepts responsibility as cited but simply wants to work out a payment plan?)
- e. Who reviews the request: local prosecutor or law enforcement? How will they learn of the request?
- f. How long does the local prosecutor or law enforcement have to review the request and respond, and is that explained to the person who requested ODR? (Setting expectations.)
- g. What happens if the local prosecutor or law enforcement does not timely respond? Is the court notified?
- h. If the citation is eligible for ODR, what information can the person cited share through the ODR system?
 - i. Will the person be able to upload files?
 - ii. If so, in what format and are there size limits?

- i. What happens if the individual does not timely acknowledge a response from the local prosecutor or law enforcement?
 - i. Will any civil infraction go into default judgment?
 - ii. Will the court automatically schedule an in-person court date?
 - iii. Other?
- j. If the parties agree to court-annexed ODR, what are the steps in the ODR process?
 - i. Does each side need to upload all evidence at the start? Or does each side proffer evidence upon prompt by ODR platform?
 - ii. What is asked of the respondent upon the start of the ODR process?
- k. How are communications managed in the ODR platform?
 - i. Are communications chat-based, call-based, text-based, other?
 - ii. Are communications asynchronous (participants do not respond at the same time)?
 - iii. Are there possibilities for communications between all parties?
- l. If the dispute is settled, how is the agreement documented and submitted?
 - i. Is there a fixed universe of settlement options, or can any arrangement be reached?
 - ii. Are there guidelines that govern possible outcomes, such as floors and ceilings for certain infractions?
- m. If a resolution is successfully negotiated between the parties, is it forwarded to a judicial officer for final review and approval?
- n. What happens if the judicial officer rejects the initial agreement?
- o. What happens if the individual requests time to pay?
- p. If there is an approved resolution, what resolution-related information is shared with the parties?
 - i. How it is delivered?
 - ii. Will it include a notice about consequences in the event of non-performance?

- q. What happens if a resolution is agreed to, approved by a judicial officer, and the person does not perform (for example, pay) as ordered?
- r. What happens if the local prosecuting official or law enforcement official offers a plea and the ODR requestor rejects it, or instead asks for their “day in court”?
 - i. How is that communicated to the court?
 - ii. Is a court date automatically set?
 - iii. How will the parties be notified of the court date?
 - b. Message through the ODR system?
 - c. Email?
 - d. Traditional mail?
 - e. Text?
 - f. How can parties change the court date if the scheduled one does not work?
 - iv. Can parties remotely participate in the non-ODR court hearing? If so, how?
 - v. Does evidence shared by parties during ODR get shared with court?
 - vi. Do communications/conversations/chats by parties during ODR get shared with court?
- s. What happens if the respondent stops engaging in ODR mid-stream?
 - i. Is a motion for default filed?
 - ii. Does it get set for hearing?

(5) Right to Appeal

- a. Is there a right to appeal?
 - i. If not, is that disclosed to the individual during the ODR process? How?
 - ii. If there is a right to appeal, how is the individual informed of that during the ODR process?
- b. If there is any right to appeal, can that be done online? If not, how will the person learn of next steps?

(6) Right to Set Aside Plea

- a. Assume, hypothetically, that a person is a victim of chicanery and did not authorize an ODR plea (e.g., identity theft victim). Can the “real person” use ODR to petition to have the original plea set aside?

(7) Measurables

- a. What program measures will define success for the ODR initiative?
 - i. Time between citation filing and disposition in traditional vs. ODR cases (case age)?
 - ii. Time of collected assessments between time of filing and final payment in traditional vs. ODR cases (collection window)?
 - iii. Amount of judicial and court staff time used in handling traditional vs. ODR cases?
 - iv. Default payment rates between ODR and non-ODR cases?
 - v. Realized number of (assumed) fewer in-person hearings.
 - vi. Fewer infractions by the same driver/fewer repeats (behavior change)?
 - vii. Other possible savings (such as less postage).
- b. How will the court measure it?
- c. How often will the court measure it?
- d. Will the court regularly survey ODR participants for feedback?
 - i. How?
 - ii. What will be asked and measured?
- e. What measured information will be treated as public information?
- f. Will the case-related information be retained for periods consistent with the court’s other recordkeeping requirements?