

**P O L I C E**

**DEPARTMENT**

**MEMO**

City and Borough of Sitka

<b>To:</b>	City Administrator Jay Sweeney
<b>From:</b>	Chief Sheldon Schmitt <i>SS</i>
<b>Subject:</b>	Parking Ordinance- Civil Process
<b>Date:</b>	June 16, 2013

#### Background

The Alaska Court System made some changes earlier this year that have had a sweeping impact. This is reflected in the attached documents, Administrative Bulletin 83 and a memo from the Alaska Courts System addressing the change to Minor Offense Rule 3(g). Among the many impacts was the new rule that all citations must be personally served by the issuing officer. This specifically affected parking citations. They can no longer be filed in court if they are left on a vehicle. The court system advised that communities adopt ordinances allowing for civil penalties and set up a process for challenging the citations within the City or issuing agency.

#### Analysis

Other communities were similarly impacted as Sitka. We looked at what they were doing to address the problem of parking citations. Most were planning to change their parking ordinances to set up a civil process. Some communities already had a civil process in place. A couple communities were simply not going to write parking citations or only write those that could be personally served.

We anticipated that the community would want to continue parking enforcement, so we looked for the best, cleanest civil parking ordinance we could find. Juneau's new ordinance was selected as an appropriate model. We crafted an amendment to the parking portion of Sitka General Code Chapter 11, "Standing Stopping and Parking". This amendment allows for civil fines and creates an administrative appeal process for parking violations.

#### Fiscal note

There is no fiscal impact in adopting the amended parking ordinance to create a civil process. However, if we choose not to amend the parking ordinance there would be approximately \$20,000 in lost revenue from parking enforcement.

#### Recommendation

My recommendation is to present to the Assembly for their approval, an amended parking ordinance that establishes civil penalties and an administrative appeal process for people who want to challenge a parking citation.

Cc; Robin Koutchak

## **11.12.070 Registered owner responsible for illegal parking and nonmoving violations.**

 SHARE    

Every person in whose name a vehicle is registered (licensed) shall be responsible for any parking or angle parking of the vehicles and for all offenses other than moving violations. It shall be no defense to a charge that the vehicle was used by another, unless it is shown that at such time such vehicle was being used without the consent of the registered (licensed) owner thereof. (Ord. 73-64 § 3 (part), 1973.)

# MEMORANDUM

Alaska Court System  
Office of Administration

**To:** See Distribution List

**Date:** March 19, 2013

**From:** Susan Miller and  
Charlene Dolphin

**Subject:** Personal Service Requirement  
for Minor Offense Citations

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Beginning April 15, officers must use new citation forms that meet the requirements of the new [minor offense rules](#) (link) and [Administrative Bulletin 83](#) (link). As required by AS 12.25.175(a)(2), the new citation forms require the officer to certify under penalty of perjury that the officer "personally served this citation on the defendant."

Minor Offense Rule 3(g) further provides:

"In this rule, personal service means the officer must deliver the citation to the defendant personally in accordance with AS 12.25.175-190."

This means that:

1. Citations may NOT be served:

- by certified mail, or
- by being left on a vehicle or the door of a house, or
- by an officer other than the issuing officer, or
- by a process server.

The court system recognizes that this may cause problems or additional work for agencies and cities, but the statutes do not currently authorize other methods of serving citations. If a citation cannot be personally served, the officer may file a complaint or the prosecutor may file an information under Minor Offense Rule 4. The court may then issue a summons, if the judicial officer finds probable cause. The summons may be served using one of the methods described in Rule 4(e), which includes certified mail and other methods.

2. Parking citations left on vehicles **CANNOT** be filed with the court. However, if a parking citation is personally served, it can be filed with the court.

Cities and state agencies that issue parking citations may want to consider an alternative procedure. Instead of making these offenses "minor offenses, cities and agencies could instead enact ordinances or regulations establishing civil penalties for parking offenses, allowing service by leaving the citation on a vehicle, and establishing a process for defendants to challenge these parking citations within the city or agency.

**Distribution:**

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ALASKA COURT SYSTEM  
OFFICE OF THE ADMINISTRATIVE DIRECTOR  
ADMINISTRATIVE BULLETIN NO. 83

TO: ALL HOLDERS OF ADMINISTRATIVE BULLETIN SETS:

All Justices	Senior Staff
All Judges	Court Analysts
Area Court Administrators	Central Services Supervisor
Clerk of the Appellate Courts	Judicial Services
Rural Court Training Assistants	APD Warrants
All Clerks of Court	
All Magistrates	
Law Libraries at Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Homer, Juneau, Kenai, Ketchikan, Kodiak, Kotzebue, Nome, Palmer, Petersburg, Sitka, Valdez & Wrangell	

OTHERS: Department of Public Safety, Department of Law Criminal Division, Municipal Police Chiefs, and Municipal Prosecutors

SUBJECT: Minor Offense Citation – Required Contents

This bulletin is issued pursuant to Minor Offense Rule 3(c). The term "minor offense" is defined in Minor Offense Rule 2. Because misdemeanors may also be charged on a citation, the form of the citation described in this bulletin includes fields necessary when misdemeanors are charged on a citation.

Dated: March 7, 2013  
Effective Date: April 15, 2013

/S/  
Christine E. Johnson  
Administrative Director

Bulletin History: Originally issued March 7, 2013

A. Format

1. Paper Citations.

Paper citations must be printed on 8.5" x 11" paper and must look exactly like the paper citation form approved by the Alaska Court System (ACS) for the Department of Public Safety (DPS). The approved citation is shown in Appendix A. The Alaska Uniform Citation published by the DPS is available without charge to all agencies authorized to issue citations.

2. Electronic Citations.

Agencies that want to file minor offense citations electronically with the court system must comply with Minor Offense Rule 22. Agencies may either use the TraCS electronic citation software and hardware available from DPS or develop their own electronic citation solution. Agencies must contact the court system's Information Services Department for the required technical specifications. The printed version of electronic citations must look exactly like the printed version of the TraCS electronic citation approved by the ACS.

B. Required Contents

1. Defendant and Offense

- a. Each citation may name only one defendant and only one offense. Minor Offense Rule 3(a).
- b. Except as provided in (c), a citation must name an individual as the defendant and must list the following:
  - (1) the defendant's full name, including middle name or initial, if known;
  - (2) the defendant's date of birth, if known;
  - (3) the defendant's driver's license number or state identification number, if known, including the issuing state and whether the license is a commercial driver's license;
  - (4) the defendant's mailing and residence address and defendant's phone numbers, if known;
  - (5) the defendant's APSIN ID, if known.

- c. Businesses, corporations, limited liability companies and other entities. Minor Offense Rule 3(h).
  - (1) Sole Proprietorship. A citation issued to a sole proprietorship must name the owner of the business as the defendant and provide the information in b above. The name of the business must be listed in the description of the offense. The citation must be personally served on the owner of the business as provided in 7 below.
  - (2) Corporation and Limited Liability Company. A citation issued to a corporation or limited liability company must name the corporation or company as the defendant. The mailing address for the entity must be listed on the citation. The officer must personally serve the citation on the on-site manager, a managing member, an officer, a managing or general agent, or on any other agent authorized by appointment or by law to receive service of process. If personal service cannot be made on one of the above in Alaska, service may be made as provided in AS 10.06.175(b) or 10.50.065(b).
  - (3) Partnership, Unincorporated Association or Other Entity. A citation issued to a partnership, unincorporated association or other entity must name the entity as the defendant and must be served on a person designated for that entity in Civil Rule 4. The mailing address for the entity must be listed on the citation.
  
- d. Classification of Offense
  - (1) The citation must state whether the offense is being charged as a minor offense under the Minor Offense Rules or as a misdemeanor or AS 04.16.050(b) & (c).<sup>1</sup>
  - (2) For fish and game offenses, the citation must indicate whether the offense is being charged as a strict liability violation.<sup>2</sup>

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<sup>1</sup> Minor Consuming Alcohol (AS 04.16.050(b) and Repeat Minor Consuming (AS 04.16.050(c)) are neither minor offenses nor misdemeanors. They are unclassified offenses, so they must be listed separately on the citation form.

<sup>2</sup> Since most fish & game offenses may be charged as either a misdemeanor or a strict liability violation (minor offense), the officer must indicate on the citation how the offense is being charged.

(3) Citations must indicate if an offense is a commercial fishing offense.

e. State Laws Adopted by Reference by Municipalities

If a municipality has adopted state statutes or regulations by reference, the citation must list the statute or regulation being charged and indicate that it was adopted by reference.

2. Uniform Table of Minor Offenses

The citation must include the statute, regulation or ordinance that the defendant is alleged to have violated as identified in the uniform table of minor offenses maintained by the court system. Minor Offense Rule 3(b). Both the number and the description must match the number and description listed in the table.

3. Rule Requirements

As stated in Minor Offense 3(c), citations must include:

- a. The essential facts constituting the offense charged. If necessary, the offense description field should be used to list any additional facts not provided in other fields that are necessary to establish the essential facts.
- b. Notice of the defendant's rights listed in AS 12.25.200, as shown in the approved DPS citation form in Appendix A.
- c. The procedure for responding to the citation, as shown in the approved DPS citation form in Appendix A, including whether the offense is a mandatory court appearance offense, optional appearance offense, or a correctable offense.
- d. The consequences of a failure to respond, as shown in the approved DPS citation form in Appendix A.
- e. If forfeiture of seized items is authorized by statute or ordinance, the citation must list the seized items and state that they will be forfeited if defendant waives appearance by entering a no contest plea or if a default judgment is entered.



4. Penalty Information

The citation must inform the defendant of the following:

- a. any applicable bail forfeiture amount established by the supreme court or scheduled fine amount established by municipal ordinance;
- b. any applicable surcharge amount required by law;
- c. the number of driver license points that will be assessed if the defendant is convicted of the alleged offense; and
- d. if the offense is an optional court appearance offense, the total amount due.

5. DPS Requirements

In addition to meeting the requirements of this bulletin, all citations filed with the court must comply with any standards adopted by DPS under AS 12.25.175. Minor Offense Rule 3(d).

6. Social Security Number – Must Not Appear

The defendant's social security number must not appear on a citation. Minor Offense Rule 3(e).

7. Probable Cause and Personal Service

The officer must state on the citation that the officer has probable cause to believe the defendant committed the offense but need not state the grounds for the probable cause determination beyond the essential facts. The officer must certify, under penalty of perjury, that the information in the citation is true and that the officer personally served the citation on the defendant. Minor Offense Rule 3(f). As provided in Minor Offense Rule 3(g), personal service means the officer must deliver the citation to the defendant personally in accordance with AS 12.25.175-190.

8. Offenses Committed in Traffic Safety Corridors and Highway Work Zones

If a motor vehicle offense is charged, the citation must indicate if the offense occurred in a traffic safety corridor or a highway work zone as provided in AS 28.90.030.

9. Offenses Involving Motor Vehicle Accidents. If an offense involves a motor vehicle accident, the citation must indicate whether the **accident** resulted in the **death** of a person.<sup>3</sup>

10. Commercial Driver's License and Commercial Motor Vehicles Offenses

If the offense involves a motor vehicle and if the defendant holds a commercial driver's license (CDL) or is driving a commercial motor vehicle (CMV), the citation must indicate whether the **offense** resulted in **physical injury to a person**;<sup>4</sup>

11. Commercial Motor Vehicle Offenses

If an offense involves the use of a commercial motor vehicle as defined in AS 28.90.990(a)(2), the citation must indicate if the motor vehicle is:

- a. over 10,000 lbs,
- b. over 26,000 lbs,
- c. designed to transport more than 15 passengers, or
- d. used in the transportation of hazardous materials.<sup>5</sup>

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<sup>3</sup> AS 28.05.151(e) states: "The supreme court, in establishing scheduled amounts of bail under this section, and each municipality that establishes or has established a fine schedule under this section may not allow for the disposition of an offense without court appearance for a person who is cited for violation of the traffic laws in connection with a motor vehicle accident if the accident resulted in the death of a person. In this subsection, 'traffic laws' has the meaning given in AS 28.15.261." Also see AS 28.33.140(a)(10) about possible disqualification of CDL by the Division of Motor Vehicles if negligent operation of a CMV causes a fatality.

<sup>4</sup> AS 28.33.140 states: "Conviction resulting in disqualification from driving commercial vehicle.  
(a) In addition to any court action or administrative action in this or any other jurisdiction, conviction of a person who holds or is required to have a commercial driver's license of any of the following offenses is grounds for immediate disqualification from driving a commercial motor vehicle for the periods set out in this section: ... (6) a serious traffic violation." The term "serious traffic violation" is defined in AS 28.33.190(16)(D): "violation of a law or ordinance relating to traffic control, which was determined by the court by a preponderance of the evidence to have been a factor in causing physical injury to a person;"

<sup>5</sup> "Lbs." means the "gross vehicle weight rating or gross combination weight rating."  
AS 19.10.399, AS 28.40.100, and 17 AAC 25.250.

The regulations in 13 AAC 03 apply to any vehicle or combination which (1) has a gross vehicle weight rating or gross combination weight rating greater than **26,000 pounds**, or (2) is designed to transport more than 15 passengers, including the driver, or (3) is used to transport hazardous materials. See AS 28.40.100(a)(2) for a more complete definition of "commercial motor vehicle" as applied to the offenses in chapter 03 of 13 AAC. This definition applies to all the statutes in Title 28 and all the regulations adopted under Title 28. Note that this definition does not apply to the statutes in AS 19.20.300-.399 (Commercial Motor Vehicle Requirements) or to the regulations in 17 AAC 25 (Commercial Vehicle Motor Vehicles).

The regulations in 17 AAC 25 apply to any vehicle or any combination which either (1) has a gross vehicle weight rating or gross combination vehicle weight rating greater than **10,000 pounds**, or (2) is designed

12. Game Restitution

If a mandatory court appearance offense involves the unlawful taking of an animal listed in AS 16.05.925(b), the citation must name the animal taken and list the restitution amount listed in the statute.

APPENDIX A – PAPER CITATION

Paper citations must be printed on 8.5" x 11" paper in at least four-part sets, as follows:

- Original to be filed with the court or the city (printed on white paper)
- One copy for the agency (printed on pink paper)
- One copy for the defendant to keep (printed on green paper)
- One copy for the defendant to mail with response (printed on white paper)

Paper citations must look exactly like the paper citation form approved by the Alaska Court System (ACS) for the Department of Public Safety (DPS). The front of the citation and the back of each of the four copies are shown below.

Front of Citation	See page 9
Back of Original Citation	See page 10
Back of Agency Copy	See page 11 (This wording is optional.)
Back of Defendant's Copy to Keep	See page 12  This page must be printed in Arial 10 font.
Back of Defendant's Copy to Mail	This copy is identical to the back of the defendant's copy to keep on page 12, except in the bottom right corner, the word's "Defendant Copy to Keep" should be replaced with "Defendant Copy to Mail."

The Alaska Uniform Citation published by the DPS is available without charge to all agencies authorized to issue citations.

CITATION #

Defendant \_\_\_\_\_ Agency ID \_\_\_\_\_ P \_\_\_\_\_

Plaintiff \_\_\_\_\_ Agency \_\_\_\_\_ Agency case # \_\_\_\_\_

CITATION FOR  MINOR OFFENSE  MISDEMEANOR  AS 04.16.050(b) & (c) Minor Consuming

F&G Offense charged as strict liability violation  Yes  No

District Court at \_\_\_\_\_ Judicial District: \_\_\_\_\_ Court Case# \_\_\_\_\_

DEFENDANT
DOB \_\_\_\_\_ Age \_\_\_\_\_ Driver's Lic \_\_\_\_\_ State \_\_\_\_\_ Class \_\_\_\_\_ APSIN ID \_\_\_\_\_
Hair \_\_\_\_\_ Eyes \_\_\_\_\_ Race \_\_\_\_\_ Sex \_\_\_\_\_ Ht \_\_\_\_\_ Wt \_\_\_\_\_ Ph \_\_\_\_\_ Wk Ph \_\_\_\_\_
Res Addr \_\_\_\_\_
Mail Addr  Same \_\_\_\_\_ Employer \_\_\_\_\_

VEHICLE
Lic/Reg \_\_\_\_\_ St \_\_\_\_\_ Expires \_\_\_\_\_ Yr \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Color \_\_\_\_\_ ADF&G \_\_\_\_\_
Commercial:  Over 10,000 lbs  Over 26,000 lbs  Over 15 psngr  HazMat DOT INSP# \_\_\_\_\_ USDOT# \_\_\_\_\_

OFFENSE
Date \_\_\_\_\_ Time \_\_\_\_\_ ATN \_\_\_\_\_ CTN \_\_\_\_\_ Code \_\_\_\_\_
Location \_\_\_\_\_ Loc. Code \_\_\_\_\_  Hwy Work Zone  Safety Corridor
 Statute  Regulation  Ordinance  Adopted by reference Section \_\_\_\_\_
Offense:
Over Limit \_\_\_\_\_ MPH in a \_\_\_\_\_ MPH Zone  Damage Only  Injury  Fatality  Commercial Fishing

Item(s) Seized that can be forfeited per AS 16.05.190, AS 04.16.205 or other statute/ordinance (list other statute/ordinance: \_\_\_\_\_):

Game Restitution amount for \_\_\_\_\_ taken illegally: \$ \_\_\_\_\_ AS 16.05.925(b) for mandatory appearance offense only.

PENALTY Driver License Points \_\_\_\_\_ Bail/Fine \$ \_\_\_\_\_ Surcharge \$ \_\_\_\_\_ Total Due \$ \_\_\_\_\_

I have probable cause to believe the defendant committed the above offense. I certify under penalty of perjury that the above information is true and that I personally served this citation on the defendant.

Officer's Signature

Officer's Printed Name

ID

Date Served on Defendant

REQUIRED RESPONSE

MANDATORY COURT APPEARANCE. You must appear on \_\_\_\_\_ at \_\_\_\_\_ AM/PM.
If you fail to appear: For a misdemeanor or a minor consuming alcohol charge, a warrant will be issued for your arrest. For a minor offense, a default judgment will be entered against you as explained on the back of this citation.

Court's Physical Address: \_\_\_\_\_

CORRECTABLE. This citation will be dismissed if, within 30 days, you:

- Correct the defect and present the vehicle for inspection
 Show proof of a valid license
 Show proof of valid insurance

at any Alaska State Trooper Post or \_\_\_\_\_

If you do not, you must pay online or fill out the back of this form and mail it within 30 days to: (court or city)

OPTIONAL COURT APPEARANCE. Within 30 days you must pay online or fill out the back of this form and mail it to:

(court or city mailing address) \_\_\_\_\_

JUDGE'S NOTES FOR MINOR OFFENSE JUDGMENT  
(Electronic record in CMS is the official judgment. MO Rule 20(a))

Default Judgment because defendant failed to appear for trial.

Plea:  No Contest  Guilty

Trial:  Not Guilty  Guilty

Dismissed by:  Prosecution

Court because:

unnecessary delay in bringing defendant to trial

prosecution or representative failed to appear for trial

defendant was not the person whom the prosecution intended to charge

in furtherance of justice because \_\_\_\_\_

SENTENCE

Date: \_\_\_\_\_

Fine: \$ \_\_\_\_\_ Due Date: \_\_\_\_\_

Surcharge: \$ \_\_\_\_\_ Due Date: \_\_\_\_\_

Restitution Ordered:<sup>1</sup> [Can be ordered only for mandatory court appearance offenses. MO Rule 10(d).

**CR-465 Restitution Judgment must be entered when restitution is ordered.]:**

Game Restitution: \$ \_\_\_\_\_ Other Restitution: \$ \_\_\_\_\_ for \_\_\_\_\_

Forfeiture.<sup>2</sup> The following items are ordered forfeited:

Seized items required by statute/ordinance to be forfeited: \_\_\_\_\_

Items authorized (but not required) to be forfeited by statute/ordinance: \_\_\_\_\_

All fish, or its fair market value, taken or retained as a result of a strict liability commercial fishing violation as provided in AS 16.05.722(b).

Court Costs: \$25 (if default judgment)

Collection Costs: \$25 (if transferred for collection)

<sup>1</sup> Minor Offense Rule 10(d) **Restitution.** If the offense is a mandatory appearance offense, the court may order restitution as provided in AS 16.05.925(b) or any other statute or ordinance authorizing restitution. If the offense is a mandatory appearance offense, any default judgment entered must order payment of any applicable restitution listed in AS 16.05.925(b). As provided in AS 16.05.165(d), restitution under AS 16.05.925(b) may not be ordered for offenses for which bail has been forfeited under AS 16.05.165(c).

<sup>2</sup> Minor Offense Rule 10(c) **Forfeiture.**

(1) A default judgment or a judgment entered on a no contest plea must order forfeiture of any seized items listed on the citation or other charging document.

(2) All other judgments of conviction must order forfeiture of:

(A) all fish and game seized under AS 16.05.190 and listed on the citation or other charging document,

(B) all fish, or its fair market value, taken or retained as a result of a strict liability commercial fishing violation as provided in AS 16.05.722(b),

(C) any seized items listed on the citation or other charging document if a statute or ordinance requires the item to be forfeited upon conviction, and

(D) any other items ordered by the court to be forfeited when forfeiture is authorized by statute or ordinance.

(3) Forfeited items shall be disposed of at the discretion of the prosecuting authority, unless otherwise ordered by the court.

OFFICER'S NOTES FOR TESTIFYING IN COURT:

Please note facts and circumstances in addition to those stated on the front of the citation, for example: 1. Any specific action of violator that increased the hazard of the violation; 2. Where the violation was observed and where contact was made; 3. Total distance traveled during pursuit; 4. Statements by violator and general attitude.

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WITNESSES:

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VEHICLE DEFECTS:

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**OPTIONAL COURT APPEARANCE INSTRUCTIONS**

Check one of the boxes below and provide the requested information. **Within 30 days**, mail this response to the address listed on the front.

NOTE: If you plead NO CONTEST, you may be able to pay on line at: [www.courtrecords.alaska.gov](http://www.courtrecords.alaska.gov). If you pay online, you do **not** need to fill out or mail/deliver this form to the address on front.

**DEFENDANT'S RESPONSE**

- I plead **NO CONTEST**. I am enclosing a check or money order payable to the plaintiff for the total due. (**Do not send cash.**) I understand that
  1. I am giving up my right to a trial and the other rights listed below.
  2. A judgment of conviction will be entered against me.
  3. The number of points shown on the front will be assessed against my driver's license.
  4. Any seized item listed on the front of this citation will be forfeited.
  5. If this is my second or subsequent conviction for an optional appearance fish and game offense in the last two years, an action may be filed to revoke my license under AS 16.05.410(g).
  6. If this is a commercial fishing offense, points may be assessed against my fishing permit.
- I plead **NOT GUILTY** and request a trial. I have read and understand my rights listed below. (**Do not send money. The court will send you a notice of the trial date.**)
- I do not wish to enter a plea at this time. I want to appear in court to have a judge explain the charges and my rights to me before I enter a plea. (*The clerk will give you a date and time to appear. This is **NOT** a trial.*)

Signature	Printed Name	Date
Mailing Address	Day Phone	Cell

**CONSEQUENCES FOR FAILURE TO RESPOND TO MINOR OFFENSE CITATION**

If you fail to respond within 30 days, a default judgment will be entered against you for:

- A fine in the amount shown on the front or, for mandatory appearance offenses, the maximum fine permitted by law (To find out the maximum fine, (1) contact the clerk of court; or (2) look at the CourtView docket at: [www.courtrecords.alaska.gov](http://www.courtrecords.alaska.gov)), **AND**
- \$50 in court and collection costs, **AND**
- Restitution if required by law, **AND**
- Forfeiture of any seized item listed on the front of this citation, **AND**
- If your fine is \$30 or more, you will also be assessed surcharge(s) required by statute, **AND**
- If this offense involves a moving motor vehicle, points will be assessed against your driver's license.
- If this is a commercial fishing offense, points may be assessed against your fishing permit.

Efforts to collect this judgment will include attachment of your **Permanent Fund Dividend**.

**FOR A MINOR OFFENSE, YOU HAVE THE RIGHT TO**

1. A trial;
2. Hire a lawyer to represent you in court;
3. Confront and question witnesses;
4. Testify; and
5. Have subpoenas issued to compel witnesses to appear on your behalf.