

## Where are (T)OM-hearings held?

(T)OM Hearings take place at the Prosecutor's Office at Emmaplein 1, Philipsburg. It is important that the suspect arrives on time for the hearing and brings a photo identification.

### What if the suspect cannot attend?

If the suspect has a reason why he/she cannot attend the hearing, this must be reported in a timely manner to the Prosecutor's Office. He/she will receive a new summons.

If the suspect does not attend and has not reported his/her absence, it is assumed that the suspect does not want to discuss the prosecutor's proposal. The suspect will then be summoned to appear in court.



**Openbaar Ministerie**  
Sint Maarten



**Openbaar Ministerie**  
Sint Maarten

## Contact Us

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**(T)OM Hearing  
Information  
Leaflet**



## Introduction

The (T)OM Hearing is an initiative of the Prosecutor's Office in collaboration with the SJIS Probation Office (Reclassering) and the Court of Guardianship (Voogdijraad). With these hearings, minor criminal offences are dealt with without engaging judges. Criminal cases can also be dealt with faster.

### What is a (T)OM Hearing?

(T)OM stands for Taakstraf Openbaar Ministerie (in English: Prosecutor's Office Community Service). Even though the name may suggest a hearing in a courtroom with a judge, a (T)OM hearing is not an actual hearing. It is a formal conversation between a representative of the Prosecutor's Office (usually a legal secretary) and the person suspected of committing a criminal act. The suspect can be aided by his/her parents and/or a lawyer.

During this conversation, the certain conditions are proposed to the suspect in order to prevent his/her case from going to court. In legal terms, this is called a conditional dismissal. If the conditions are met, the case is dismissed by the prosecutor.

### Who is present at a (T)OM Hearing?

Various people are present at a (T)OM Hearing. The suspect is summoned to appear at the hearing. Minors must be accompanied by a parent and/or a lawyer (at one's own expense). The representative of the Prosecutor's Office (a legal secretary) is present. A representative of the Probation Office or the Court of Guardianship may also be present.



## What happens during a (T)OM Hearing?

At the beginning of the hearing, the legal secretary verifies the suspect's personal details and checks if the suspect's parents and/or the lawyer are present. The suspect is given an explanation about what will happen during the hearing, the charges/suspicions are stated and/or verified, and he/she is asked if everything is clear.

After the introduction, the suspect is informed of his/her rights by the legal secretary, which means that the suspect is not required to answer questions. Next, the criminal offence and the suspect's personal circumstances are discussed. The other attendees, such as the parents, the lawyer, and the SJIS Probation Office or the Court of Guardianship, may also say something at the hearing. When everyone has gotten a chance to speak, the legal secretary indicates the proposal he/she has in mind. It is up to the suspect to agree with this proposal for the settlement of the offence.

### What can a proposal entail?

The proposal is also called a conditional dismissal. This means that if the suspect meets all conditions proposed, the case against him/her is dismissed. A proposal can contain (a combination of) different terms (not just community service).

*Terms could include one or more of the following:*

- Community service of up to 120 hours
- Payment of a sum of money
- Damage restitution to the victim
- Restorative mediation with the victim (such as an apology)
- Counseling by the SJIS Probation Office or the Court Of Guardianship
- Training such as behavioral therapy or social skills

## What if the suspect does not comply with conditions?

If the suspect accepts the proposal, he/she signs it and must also fully comply with it. If the suspect does not meet the conditions set out in the agreement, he/she will be summoned to appear before a judge. The sentence at this stage will usually be higher.

### What offenses are dealt with in a (T)OM Hearing?

Only simple offences are eligible to be dealt with via a (T)OM Hearing, such as:

- Destruction with little damage or damage that can be compensated by suspect
- Simple theft
- Assault with minor injury
- Simple insult or threat
- Mild forms of relational (domestic) violence

To be eligible for a (T)OM Hearing, the suspect must have confessed to committing the offence. He/she should also not have committed a similar offence in the past.

### How is a suspect summoned to a (T)OM Hearing?

The suspect receives a written summons from the Prosecutor's Office via the bailiff. The summons states the time and place of the (T)OM Hearing and a description of the (suspected) criminal offence.

