

Answers to Questions about “Weird” Dispositions

Interpretations of Rules for Counting Closed Cases in Public Defender Offices

| Date | Question | Interpretation |
|----------|---|---|
| 10/22/07 | How to report innocence inquiry cases. | I just wanted to send out a little clarification about disposition reporting for the Innocence Inquiry cases you all are handling. It is fine to submit a fee app to us if you want to do so after completing the rights advisement. In fact, it will be helpful to us in figuring out if we are giving offices' appropriate case credit for this. But, for purposes of disposition reporting, please do not report an Innocence Inquiry case on your office's weekly disposition report until both the rights advisement and formal inquiry are complete. |
| 7/10/07 | When the attorney goes to court and the client is placed on the deferral program , should they do the fee app or wait until the deferral period is over before they close out the case? | <p>The case is disposed and reported when your client is entered into the deferral program, no need to wait for the program to be completed. If the case comes back, it's a new case. The reason is that it may be months or years for the deferral program to be completed and forcing a private appointed attorney to wait to be paid is unreasonable. So, as always, we mirror PAC practices. Thank you.</p> <p>In other words:</p> <p><i>Client Complies:</i> no additional disposition to report.(you reported 1 disposition when client was placed on deferral program, that is all you report)</p> <p><i>Client Does Not Comply:</i> case comes back and a disposition is reported when it resolved the second time around (you report 1 disposition when client was placed on deferral program and second disposition when the court resolves the non-compliance issues).</p> |
| 6/30/05 | Fugitive extraditions: If we handle a fugitive extradition, how should that be recorded? | For each extradition disposed (that is, matters in which another state wants to extradite a person from our state), record a fugitive extradition in district court criminal (the box just below felony probation violation and above DWI). All fugitive extraditions are handled in district court and almost all involve felonies. There is no class of felony listed because the class of offense in the other state may not be the same as in NC. |
| 6/30/05 | 10-day MAR: If our office or the prosecutor makes a motion for appropriate relief (MAR) in district court within ten days of the district court's ruling, should we count an additional disposition? | No. Resolution of a 10-day MAR is considered part of the original representation. You should therefore count one district court disposition only. |
| 6/30/05 | State's appeal to superior court: If the prosecutor petitions the superior court to review a district court ruling, how should we count that? | Treat the prosecutor's petition as you would a misdemeanor appeal by your office. If as a result of the prosecutor's petition the case is remanded to district court, count the case when it is finally resolved at the trial court (in district court if the case ends there and in superior court if the case goes back up to superior court and is resolved there. If as a result of the prosecutor's petition the superior court enters an order terminating the case (for example, the superior court denies the petition), count the case as a misdemeanor appeal in superior court (probably without jury trial). |

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| 6/30/05 | Plea bargain involving charges in other courts: If the client agrees to a plea bargain in superior court in which the state agrees to dismiss pending charges in district court, how should we count that? | The answer depends on how the district court charges are disposed of. If as part of the superior court deal the state takes an out-of-court dismissal of the district court charges, count one disposition only, in superior court. If further action is required in district court to dismiss the charges there, count two dispositions, one in superior court and one in district court. The superior court disposition would be counted in the highest charge category for the case in that court, and the district court disposition would be counted in the highest charge category for the case in that court. |
| 6/30/05 | Client not accepted into drug treatment court: Suppose the client is referred to drug treatment court but is not accepted. How do I record that? | Do not record anything in drug treatment court. Record one disposition only, in regular court, when the case is resolved. |
| 7/11/05 | Client enters into a deferral agreement . If he complies, his case will be dismissed in one year. If not, there will be another court appearance by us in one year. Does that count as a disposed case now or upon final disposition? | Count a disposition when client enters into a deferral agreement. Count a second disposition ONLY if client does not comply and case comes back. If client complies and case is dismissed there is no second disposition to record. |
| 7/11/05 | I have a question about counting Prob. Viol. are we counting the review hearings when a client is not violated but gets a court date set for review? | If the review takes place, count a disposition under probation violation. |
| 7/11/05 | If you have a misdemeanor (shoplifting, para., etc.) and a minor traffic, is it non-traffic or other traffic when closing. I know it is not non-traffic when there is a DWI, but unsure about his specific question. | Count the disposition under misdemeanor non-traffic. It is considered the higher charge and so is listed above misdemeanor traffic on the disposition reporting form. |
| 7/11/05 | Is there a form for appointing provisional counsel in capital cases ? | There is an appointment form for provisional attorneys, BUT you ONLY need to fill it out if you are having problems getting access to your client and you need something official from the Capital Defenders Office to prove that you represent that client. The Capital Defenders Office does NOT require you to fill out the form. To report a provisional attorney disposition. You treat these cases like you would a review case. Submit a list with the defendant name, county, file number, and date or date span that you served as provisional attorney. |

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| 7/11/05 | <p>Thanks. We had another question come up, today. In our meeting it was said that the Fugitive/Extradition would only be in “District” but what if it's followed by a Governor's Warrant? That will close in Superior but is basically the same thing, right? Do we have to add yet another row in Superior?</p> <p>Follow up: In Cumberland County the only thing handled in district court is the initial appearance unless the client waives extradition (i.e., agrees to be extradited without a fight). Everything else is done in Superior Court.</p> | <p>Here's how we understand the extradition process. Everything is done in district court, including proceedings after issuance of a Governor's Warrant. The only time the case would make it to superior court is if the fugitive applies for a writ of habeas corpus to review the rulings of the district court.</p> <p>So, in rare instances, the case could close in superior court. There would still be only one disposition because, like a misdemeanor appeal, the superior court proceeding should be viewed as a continuation of the district court proceeding.</p> <p>Count this disposition, on the rare times when it happens, in Superior Court "Other". This occurrence is too rare to create a new category.</p> <p>Follow up: Our understanding is that in most circumstances it is in the clients' interest to waive the extradition, which means most are handled in District Court and the disposition recorded there. If it is in client's interest not to waive and it does go up to Superior Court record the disposition in Superior Court under "Other." Again, these cases are so infrequent they do not warrant a separate category of their own.</p> |
| 7/14/05 | <p>How do PD offices report the lawyer for the day in drug treatment and probation violation courts?</p> | <p>Attorney for the Day: Each client counts as one disposition under the appropriate charge ("Review Hearing", "Final Disposition", Non-Felony Prob. Viol, etc.) just as you would if you were handling an individual case. The attorney fills out one fee application form and under client name puts "Attorney for the Day, Drug Treatment Court" [or Prob. Viol. Court or Comm. Resource Court, whatever it is]. Attached to the fee application should be a list of the name and file number of each client handled during that session.</p> |

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| 4/06/06 | How to handle infraction cases when the court appoints a public defender to the case. | <p>On rare occasions, the court may appoint the public defender office to an infraction case because it is attached to a misdemeanor or felony for which the defendant is entitled to counsel at state expense. Technically, defendants are not entitled to representation in infraction cases because there is no possibility of an active or suspended jail sentence. However, we understand that there may be legitimate policy reasons for a defendant to be represented in an infraction proceeding that could negatively impact the outcome in a related case involving the possibility of jail time. We wanted to clarify two points:</p> <ol style="list-style-type: none">1. If you receive an infraction case that is not attached to more serious charges for which there is a right to appointed counsel, please inform the court that the indigent client is not entitled to counsel for an infraction.2. Here is how to report infraction cases when you do handle them because they are tied to a misdemeanor or felony. If the infraction case is settled as part of the more serious charges, record it as one disposition under the highest charge (this is business as usual). If the infraction case is settled independently (different court, different day) record the infraction case a one disposition in the "Other" category. Do NOT record it as a misdemeanor traffic case. Then record one disposition when the other charge is disposed, under the highest charge category. Essentially, we are following our rules like always, but I just wanted to make sure you are recording the infraction cases in the "Other" category. |