

Office of the State Courts Administrator

Miriam Jugger

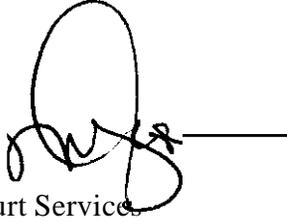
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MEMORANDUM

TO: Clerks of Circuit Court

FROM: Miriam Jugger, Senior Court Analyst I
Office of the State Courts Administrator, Court Services 

DATE: October 10, 2008

SUBJECT: Summary Reporting System (SRS) Technical Memo 08-02
**Mental Competency Cases (Incompetent to Proceed Adjudications):
Criminal Disposition Reporting**

This memorandum serves as clarification and correction of the Summary Reporting SRS guidelines for the reporting of Incompetent to Proceed Adjudications. This memorandum supersedes Technical Memorandum 03-03 and pages 3 & 4 of Technical Memorandum 04-03. The 2002 SRS Manual pages 2-4, 2-10 and 8-3, 8-8 specifically discuss disposition reporting for cases involving mental competence.

A review of Offender Based Transaction System (OBTS) data indicates an under or no report by some counties on the number of individuals who are deemed mentally incompetent to proceed. Further documentation of this can be found in a recent Office of Program Policy and Government Accountability (OPPAGA) Report. Please reference the OPPAGA website www.oppaga.state.fl.us and Report No. 08-17 at pages 4-5.

To better track these mental competency cases of all types, the Office of the State Courts Administrator (OSCA) is clarifying and correcting the SRS Manual by requiring that all mentally unable to stand trial cases be reported for SRS purposes based upon the order entered by the court directing the defendant into a program. Report the disposition based upon the date the order is time-stamped by the clerk. In the event that there is no order entered, report the disposition based upon the date-stamped agreement between the defendant, their attorney and the state attorney. These dispositions are counted in the **Before Trial- Other** disposition category.

Two updates to the SRS Manual for SRS paper reports (sections 2 & 8) are presented below.

1. Page 2-10, SRS Manual, currently provides the following instructions regarding defendants declared mentally unable to stand trial for disposition reporting in felony cases:

Old Instruction:

✓ *Report the number of defendants declared mentally or physically unable to stand trial or to participate in the judicial process.*

For the OBTS, use the "Court Action Taken" code of "M" (mentally/physically unable to stand trial).

New Instruction:

✓ *Report the number of defendants declared mentally unable to stand trial or to participate in the judicial process and the number of defendants placed in mental health programs based upon an adjudication of incompetent to proceed, after an information or indictment is filed. For SRS purposes, report the disposition based upon the date-stamped order entered by the court directing the defendant into a program. If no order is entered, report the disposition based upon the date-stamped contract between the defendant and the state attorney.*

For the OBTS, use the "Court Action Taken" code of "M" (mentally unable to stand trial).

For counties reporting criminal SRS data via monthly paper reports, these dispositions will continue to be reported in the Before Trial- Other disposition category.

2. Page 8-8, SRS Manual, currently provides the following instructions regarding defendants declared mentally unable to stand trial for disposition reporting in misdemeanor cases:

Old Instruction:

✓ *Report the number of defendants declared mentally or physically unable to stand trial or to participate in the judicial process.*

For the OBTS, use the "Court Action Taken" code of "M" (mentally/physically unable to stand trial).

New Instruction:

✓ *Report the number of defendants declared mentally unable to stand trial or to participate in the judicial process and the number of defendants placed in mental health programs based upon*

*an adjudication of incompetent to proceed, **after** an information or indictment is filed For SRS purposes, report the disposition based upon the date-stamped order entered by the court directing the defendant into a program. If no order is entered, report the disposition based upon the date-stamped contract between the defendant and the state attorney.*

For the OBTS, use the "Court Action Taken" code of "M" (mentally unable to stand trial).

For counties reporting criminal SRS data via monthly paper reports, these dispositions will continue to be reported in the **Before Trial- Other** disposition category. Finally, this part of the SRS Manual discusses specific criminal reporting procedures for those cases involving defendants on pretrial diversion when reporting data via the Offender Based Transaction System (OBTS). For reporting purposes, the OSCA tracks case activity in these types of cases in more detail than other types of cases. Although legally different proceedings, the OSCA tracks these and other "diversionary" case activities, such as defendants accepted into drug courts or defendants placed in mental health programs following a finding of incompetent to proceed, in a similar manner. In order to clarify reporting of the various types of "diversionary" cases, please make sure to replace pages 10-10 to 10-13 with the new pages attached to the memorandum.

Please ensure that all staff involved in the reporting of SRS criminal data are aware of these revisions to the disposition reporting requirements. It is recommended that copies of this memorandum and addendum be distributed to those staff for inclusion in their SRS Manuals or to be kept as desk references materials.

The OSCA will be providing video conference training sessions on this reporting requirement in the Fall of 2008. If you have questions or concerns regarding this or any OSCA, OBTS and SRS related issues, please contact me at (850) 410-1888 or via e-mail at juggerm@flcourts.org.

Thank you for your attention to this matter.

xc: Gregory Youchock, Chief of Court Services, OSCA
Kristine Slayden, Senior Court Statistics Consultant, OSCA
PJ Stockdale, Senior Court Statistics Consultant, OSCA
Jim Brown, Court Operations Consultant, OSCA
Bradley Rich, Senior Court Analyst I, OSCA

Attachment

REPORTING “DIVERSIONARY” CASE ACTIVITY

The following section provides specific information for reporting cases involving defendants participating in various “diversionary” programs such as defendants directed into pre-trial diversion programs, accepted into drug courts or placed into mental health programs following a finding of incompetent to proceed. Specifically, the instructions in this section involve those cases that are reported with a Final Action Taken by Prosecutor code of P or Court Action Taken code of H or M. The instructions address reporting procedures before or after an information is filed. Please pay close attention to the process for reporting these cases when an individual fails to complete the program.

Drug Court: The judicial workload associated with monitoring drug court cases is substantially more involved than that of regular drug cases. The requisite judicial status review hearings that occur throughout the life of drug court cases require additional reporting of post-sentence events for SRS. These judicial status review hearings are reported as reopened cases in the post-sentence phase of the OBTS record using the reopened code “O” (page 10-6).

Please refer to Multiple Special Proceedings (page 10-9) - the "900" Sequence Records for further procedures on reporting multiple occurrences in the same reporting period for judicial status review hearings associated with drug court cases. This process should be followed when the number of judicial reviews exceeds the number of original OBTS records (i.e., all of the Post Sentence Phase fields have already been used to report the reviews or other post-sentence events).

CIRCUIT CRIMINAL

Before an Information is Filed

These procedures should be followed when a defendant enters the diversionary program prior to the filing of an information or indictment:

- The Prosecutor Phase should be completed;
- The **Final Action by the Prosecutor** (page 79) should reflect code P (pretrial diversion); and
- The **Prosecutor Filing Date** field (page 77) should contain all 8's for not applicable.

Successful Completion of Pretrial Diversion Program

These procedures should be followed if a defendant successfully completes a diversionary program and the state attorney subsequently drops the charge(s):

- The **Prosecutor Final Decision Date** (page 78) should be changed to reflect the date the paperwork is filed which dismisses the case; and
- The **Final Action by the Prosecutor** (page 79) should be changed to reflect code L (dropped or abandoned).

Failure to Complete Pretrial Diversion

These procedures should be followed if the defendant fails to complete a diversionary program and an information is subsequently filed:

REPORTING “DIVERSIONARY” CASE ACTIVITY

- The **Prosecutor Filing Date** (page 77) should be changed to reflect the date the information is filed;
- The **Prosecutor Final Decision Date** (page 78) should be changed to reflect the date the information is filed; and
- The **Final Action by the Prosecutor** (page 79) should be changed to reflect code N (filed).

Note: These records will **not** be reported as filings or dispositions on the SRS report unless an information is filed.

After an Information is Filed

These procedures should be followed when a defendant is placed into a diversionary program after an information is filed:

- The **Prosecutor Phase** of the record should be completed;
- The **Prosecutor Filing Date** (page 77) should reflect the date the information is filed;
- The **Prosecutor Final Decision Date** (page 78) should reflect the date the information is filed;
- The **Prosecutor Final Action** (page 79) should reflect N (filed);
- The **Court Phase** of the record should be completed;
- The **Court Decision Date** (page 98) should reflect the date the pretrial diversion order or the order declaring mentally unable to stand trial is filed, or in the event no order is entered, this field should reflect the date the defendant enters into a contract with the state attorney; and
- The **Court Action Taken** (page 99) should reflect H (pretrial diversion) or M (mentally unable to stand trial), depending on the circumstances.

Successful Completion of Pretrial Diversion

These procedures should be followed when the defendant successfully completes a diversionary program and the state attorney subsequently drops the charge(s):

- The **Prosecutor Final Decision Date** (page 78) should be changed to reflect the date the paperwork is filed which dismisses the case; and
- The **Final Action by the Prosecutor** (page 79) should be changed to reflect code O (nolle prosequi).

Note: The disposition codes in the Court Phase take precedence over the disposition codes in the Prosecutor Phase; therefore, these cases will continue to be counted in the **Before Trial, Other** disposition category even after the nolle prosequi is entered.

REPORTING “DIVERSIONARY” CASE ACTIVITY

Failure to Complete Pretrial Diversion

These procedures should be followed when a defendant fails to complete a diversionary program:

- The **Date Charge Reopened** (page 132) should reflect the date the paper work is filed which reopens the case; and
- The **Reason Charge Reopened** (page 133) should reflect code O (other).

Sentencing After Failure to Complete Pretrial Diversion

These procedures should be followed when a defendant is sentenced after failing to complete a diversionary program:

- The Court Phase of the record should reflect the new **Court Decision Date** (page 98);
- The new **Court Action Taken** (page 99) should be entered;
- The **Type of Trial** (page 103) should be entered;
- The **Defendant's Final Plea** (page 104) should be entered; and
- The **Date Reopened Charge Closed** (page 134) the court decision date should be entered here to identify the date the reopened charge was closed.

COUNTY CRIMINAL

The court phase of the record is used when a defendant is placed into a diversionary or mental health program prior to or after an information is filed. These procedures should be followed:

- The Court Decision Date (page 98) should reflect the date the pretrial diversion order or mentally unable to stand trial order is filed, or in the event no order is entered, this field should reflect the date the defendant enters into a contract with the state attorney; and
- The Court Action Taken (page 99) should reflect H (pretrial diversion) or M (mentally unable to stand trial), depending on the circumstances.

Successful Completion of Pretrial Diversion

These procedures should be followed when the defendant successfully completes a diversionary program and the state attorney subsequently drops the charge(s):

- The **Prosecutor Final Decision Date** (page 78) should be changed to reflect the date the paperwork is filed which dismisses the case; and
- The **Final Action by the Prosecutor** (page 79) should be changed to reflect code “O” (nolle prosequi) or “L” (dropped/abandoned) depending upon the type of dismissal filed.

<p>Note: The disposition codes in the Court Phase take precedence over the disposition codes in the Prosecutor Phase; therefore, these cases will continue to be counted in the Before Trial, Other disposition category, even after the nolle prosequi is entered.</p>

Failure to Complete Pretrial Diversion

If there has been NO court involvement in the case, these procedures should be followed when

REPORTING “DIVERSIONARY” CASE ACTIVITY

the defendant fails to complete a diversionary program and an information is subsequently filed:

- The Prosecutor Phase should be completed;
- The **Prosecutor Filing Date** (page 77) should reflect the date the information is filed;
- The **Prosecutor Final Decision Date** (page 78) should reflect the date the information is filed;
- The **Final Action by the Prosecutor** (page 79) should be code N (filed); and
- The Court Phase should be reset with default values.

If there has been NO court involvement in the case, these procedures should be followed when the defendant fails to complete a diversionary program and an information is NOT filed:

- The Prosecutor Phase should be completed;
- The **Prosecutor Filing Date** (page 77) should be all 8s;
- The **Prosecutor Final Decision Date** (page 78) should be the date the decision is made not to file;
- The **Final Action by the Prosecutor** (page 79) should be changed to reflect code L (dropped/abandoned); and
- The Court Phase should be reset with default values.

If there has been court involvement in the case, these procedures should be followed when the defendant fails to complete a diversionary program:

- The **Date Charge Reopened** (page 132) should reflect the date the paperwork is filed which reopens the case; and
- The **Reason Charge Reopened** (page 133) should reflect code O (other).

Sentencing After Failure to Complete Pretrial Diversion

- These procedures should be followed when a defendant is sentenced after failing to complete a diversionary program:
- The Court Phase of the record should reflect the new **Court Decision Date** (page 98);
- The new **Court Action Taken** (page 99) should be entered;
- The **Type of Trial** (page 103) should be entered;
- The **Defendant's Final Plea** (page 104) should be entered; and
- The **Date Reopened Charge Closed** (page 134) the court decision date should be entered here to identify the date the reopened charge was closed.