

FOURTH JUDICIAL DISTRICT
CHIEF JUDGE ORDER 2008-02

(Transfer of County Court Criminal Cases to District Court)

- A. This Chief Judge Order 2008-02 supersedes and replaces Chief Judge Directive 95-4, Chief Judge Directive 2001-1, and the Best Practice Model for Transfer of County Court Cases to District Court.
1. This Chief Judge Order 2008-02 does NOT apply to County Court civil cases.
- B. Non-D/V Misdemeanor Cases and Traffic Cases:
1. All County Court non-D/V misdemeanor cases and all County Court traffic cases where the defendant has an open and pending pre-plea or pre-verdict felony case in District Court SHALL be transferred to the District Court if the following circumstances exist:
 - a. The defendant has NOT entered a guilty plea in the County Court case; and
 - b. The defendant has NOT had a guilty verdict entered in the County Court case; and
 - c. If a NOT GUILTY plea has entered in the County Court case, so long as the defendant withdraws such not guilty plea so that no plea has entered in the County Court case.
 2. Any pre-disposition County Court non-D/V misdemeanor case or County Court traffic case MAY, if requested for disposition purposes, be transferred to the District Court in the discretion of the District or County Court.
 3. Any post-disposition County Court non-D/V misdemeanor case or County Court traffic case, MAY, if requested for disposition purposes, be transferred to the District Court in the sole discretion of County Court.
- C. D/V Cases:
1. County Court D/V cases SHALL be transferred to District Court when the District Court has an open and pending pre-plea and pre-verdict District Court D/V case regardless of whom the victim may be, but ONLY IF:

- a. The defendant has NOT entered a guilty plea in the County Court case; and
 - b. The defendant has NOT had a guilty verdict entered in the County Court case; and
 - c. If a NOT GUILTY plea has entered in the County Court case, so long as the defendant withdraws such not guilty plea so that no plea has entered in the County Court case.
 2. Any County Court D/V case which is post-plea, post-verdict, or otherwise in revocation status, MAY, if requested for disposition purposes, be transferred to the District Court in the sole discretion of the County Court.
- D. If a County Court case has been transferred to District Court:
1. The District Court shall NOT consider a County Court case transferred to District Court until the County Court division has entered a minute order transferring such case to District Court. Neither the district attorney, defense counsel, nor pro se' defendant may transfer the case.
 2. At the time of the transfer of a County Court case to District Court, the County Court should set the County Court case for a pretrial conference in the applicable District Court for the next court date in the District Court case (This will ensure [a] the District Court has the County Court case file at the next District Court hearing date, [b] that speedy trial has not commenced on the County Court case at the time it first appears in the District Court, and [c] adequate time for the County Court to handle the County Court case in the event it is returned to the County Court in the future).
 3. The District Court Judge should encourage the district attorney and defense counsel (or pro se' defendant) to include the County Court case as part of the disposition of the felony case.
 4. The District Court's clerk shall ensure that all County Court cases have minute orders entered in the County Court case concerning the actions and events occurring in District Court. Such notations shall be made for each District Court appearance.
 5. The District Court shall keep all transferred County Court cases until the District Court case is resolved by plea or trial, absent compelling reasons to return the County Court case prior to such time.

6. If the County Court case is dismissed as part of a plea agreement in the District Court case, or if a guilty plea is entered in the County Court case as part of the felony disposition, the District Court's clerk shall enter a minute order in the County Court case to reflect such action.
7. In the event the County Court case is returned to the County Court by the District Court, it should be sent back to the originally-assigned County Court division and set on a Tuesday at 8:30 a.m. for a pretrial conference. Said pretrial conference shall not be set in the County Court division sooner than 2 weeks. The District Court should take all necessary steps to obtain a waiver of speedy trial, if the speedy trial period is running, prior to transferring the County Court case back to the County Court.
8. In County Court cases in District Court where the defendant fails to appear a bench warrant shall be issued and any existing bond forfeited.

Kirk S. Samelson

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January 30, 2008, as amended, April 21, 2008

Chief Judge