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M E M O R A N D U M

DATE: May 3, 2002

TO: District and Municipal Court Judges
cc: Court Administrators and District Court Magistrates

FROM: James L. Covault, Director
Trial Court Services

SUBJ: Caseload Reporting: Misdemeanor Case Bound-Over to Circuit Court
Misdemeanor Reduced to Civil Infraction

Implementation of the new Caseload Reporting System (CRS) prohibits district and municipal courts from reporting a misdemeanor case as bound over to circuit court. When a charge on a criminal complaint carries a penalty for more than one year in jail, even when described in statute as a misdemeanor, the case should be coded as a felony case.

If the county prosecutor requests a separate misdemeanor case with a penalty of one year in jail or less be bound over with a felony case to facilitate plea bargaining, judges should prohibit this practice. The misdemeanor case must remain pending in the district court until such time as the prosecutor determines whether he or she will go to trial or file a *nolle prosequi*. In the meantime, the case should be scheduled for a date certain in the district or municipal court.

Placing the case on the docket provides the best method for review and alerts the prosecutor that further action is necessary. If the case ages sufficiently to qualify for reporting under MCR 8.110(C)(5)(c), i.e. there has been a delay of six months between the date of the arraignment on the warrant and complaint and the beginning of the trial, the reason for the delay may be reported as “pretrial proceedings pending on case #_____ in circuit court.” The case may be reported disposed in CRS upon receipt of a *nolle prosequi*, or after entry of a bench or jury verdict, a plea, or some other applicable method of disposition.

Despite statutory language which states that a civil infraction is not a lesser included offense of a criminal offense in MCL 257.907, 600.8727 and 600.8827, prosecuting officials in some jurisdictions dismiss misdemeanors and initiate civil infraction violations as a part of plea bargaining. In these instances the court should report the misdemeanor case disposed under “Case Type Change,” open a new civil infraction and dispose of the civil infraction using one of the disposition methods available for the particular civil infraction case type code. In most cases, this would be an “Admission of Responsibility.”