

Judicial Diversion Protocols (Taken from LAS protocols)

All clients seeking Judicial Diversion still are required to obtain an assessment prior to their first appearance in the Diversion Part. Unfortunately, few out of custody clients are doing so and this is causing needless delays which Judge Capeci has said she will no longer excuse. Please read this memo so that we notify every client of this requirement in a timely fashion. This issue pertains to out of custody clients, as those in custody will receive a televisit from a member of the Diversion's Problem Solving Unit. Custody cases are adjourned 1 week from the request for Diversion to the first appearance and the assessment will take place in that week.

If the client is out of custody, the attorney handling the case when it is transferred to Diversion is responsible for informing the client that she or he is responsible for contacting the Problem Solving Unit to schedule this assessment and that the judge requires that the assessment take place before the first appearance. This typically means the attorney at the SCI Conference or in the IAS part. Out of custody clients are required to call 914-824-5820 to make that appointment. These cases are adjourned 2 weeks from the Diversion request. This means that this crucial information must be communicated to the client right away. A telephone call to the client (the results of which are noted in a memo) followed by a letter would be ideal. We are working on a pro forma letter for the database, but for now, a letter with suggested language is attached for your convenience.

Judge Capeci has said that she will no longer permit adjournments in cases where the client has not followed this procedure, even if it is a result of the attorney's failure to inform the client of this protocol. This pertains mostly to SCIs (as there is little the judge can do to penalize an indicted client, given the law) but that is the way in which cases reach Diversion. In SCIs, she has threatened to refuse to hear the matter and instead return the case to the SCI part. So, it's imperative that we notify the client.

Also important to note--the judge is skeptical of the motives of a client who makes a legally timely, but apparently tardy (at least to the judge) request for Diversion. This has arisen when client's case is in an IAS part for a while, especially when a state prison offer is made there or when client's case is in TAP when the request for the transfer is made. This is not to say that clients get rejected because of this, but it does mean that client will be more heavily scrutinized, causing jeopardy that perhaps could have been avoided and

And, of course, it can prolong a client's stay in jail, as the bulk of Diversion participants are involved in community based treatment.

Thanks for your cooperation.