

Westchester Assigned Counsel

GENERAL CASE CLOSING FORM INSTRUCTIONS

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INTRODUCTION

Pursuant to the *Hurrell-Harring* Settlement, the New York State Office of Indigent Legal Services (“ILS”) developed a General Case Closing Form (“CCF”) to systematically collect information on various quality indicators in criminal cases. This form is to be used by providers of mandated representation in Onondaga, Ontario, Schuyler, Suffolk, and Washington counties.

The document includes both the questions and instructions intended to guide the completion of the CCF. ILS has worked with the *Hurrell-Harring* Settlement counties to ensure that transmittal of the data is stripped of any variables that would identify individual clients.

GENERAL INSTRUCTIONS

This CCF should be submitted by the attorney who provided representation at the time the case was resolved.

Do not complete the form if:

1. You appeared as the attorney solely for arraignment;
2. The case was disposed of at arraignment;
3. The case was transferred to family court pursuant to C.P.L. §722 and §725 within one (1) day of arraignment;
4. You were assigned to the case as a 2nd Chair;
5. The client retained private counsel at any point during the case;
6. If a conflict arose at any point during the case and the case was re-assigned *to another attorney*;
 - a. NOTE: The attorney representing the client at the time the case is resolved will be responsible for submitting a CCF for that case.
7. Post-disposition cases, e.g. Violations of Probation, Declarations of Delinquency and Extradition cases, etc.

If the matter was satisfied by the disposition of a different case (also known as ‘dismissed in satisfaction’ or ‘covered’), please complete one form for all cases. Include quality information for all cases satisfied on one completed form. For example, if an investigator was used on a case that was satisfied, please indicate this information on the completed form.

No question should be left blank. Please provide a response for each question on the form. Most questions only require a “Yes”, “No”, or “N/A” response, as described below.

- “No” should be used to indicate that a specific task was not performed.
- “N/A” should be used to indicate that the course of action was not applicable to the case.
 - Ex. “Did you advise the client about any related immigration consequences?” You would select “N/A” if your client is a United States citizen, and therefore does not face immigration consequences.

For purposes of this form, where applicable, the defense team includes all individuals, whether on staff or retained, that provide services on the case. This includes, but is not limited to, 2nd chairs, investigators, social workers, case managers, sentencing advocates/mitigators, paralegals, secretaries / administrative staff, supervisors, and colleagues.

Responses to this form are not limited to activity which may be included in a voucher. For example, if you sought advice from a colleague, but did not bill for that time, you should still check “Yes” for that question.

ARRAIGNMENT

Was an attorney present at arraignment? YES NO I don't know

Explanation: Even if you were not the arraigning attorney, but you know that the client was represented at arraignment, select "Yes".

Were YOU the arraigning attorney? YES NO N/A

Explanation:

- Select "No" if you received the case at any point after the arraignment.
- Select "N/A" only if you know there was not an attorney present at arraignment.

INITIAL CHARGE(S) (Check ALL that apply)

Violation Non-Violent Felony Other:
 Misdemeanor Violent Felony

Explanation: This section covers all charges filed against your client in the closed case on which you are reporting.

- Check the appropriate box for each level of offense charged.
- If your client was charged with more than one offense, **select all that apply**. For example, if your client was charged with a non-violent felony and a misdemeanor, select both boxes.

SPECIAL CHARGE(S) (Check ALL that apply)

Homicide Drug Adolescent / Juvenile Offender
 DWI Sex Offense Youthful Offender
 NONE

Explanation: These offenses are to be reported based on the nature or description of the offense initially charged, (i.e. sex offense) not the level of the crime (i.e. violent felony).

- Check the appropriate box for each type of offense charged.
- Youthful Offender ("YO") means any client who is YO eligible.
- If your client was charged with more than one offense, **select all that apply**. For example, if your client was charged with a sex offense and a drug offense, select both boxes.
- A sex offense means any offense requiring registration if convicted, as listed in Correction Law 168-a(2) or (3).

DISPOSITION TYPE

Not Guilty After Trial Dismissal Adjournment in Contemplation of Dismissal
 Guilty-Plea Lesser Charge Guilty-Trial Top Charge Removed to Family Court
 Guilty-Trial Lesser Charge Guilty-Plea Top Charge Other:

Explanation: This section covers the disposition of the closed case. **Select only one disposition** for the closed case. If "Other" is selected, please enter the disposition type in the space provided. You may report instances where a case was closed prior to disposition, such as admission to a drug court or interim probation, which shall be indicated in the "Other" category.

Did the disposition satisfy any other case(s)? YES NO N/A

Explanation: If the disposition of this case satisfied any other case(s) (also known as 'dismissed in satisfaction' or 'covered'), please select "Yes".

List any other cases “satisfied” or “covered” by the disposition of this case:

Explanation: Please list in the space above, the top charge of any other case(s) satisfied by the disposition of this case.

LENGTH CASE OPEN (From assignment to disposition)

- <1 day 1-7 days 8-14 days 15-30 days
 31-90 days 91-180 days 7-12 months More than 1 year

Explanation: This section covers how long the case remained open from assignment to the time of disposition of the case. Select the box that reflects the number of days or months the case was open.

- **Assignment** means the point at which the attorney filling out this form was assigned the case.
- **Disposition** means the final determination of a case by the court, **not** when the organization or attorney closes the file or requests payment (for Assigned Counsel).

Total number of court appearances in the case (including arraignment)?

- 1 2 3 4 5 6 7 8 9 10 or more

Explanation: List the number of appearances **YOU** made in this case. Do not include appearances made by prior attorneys if this case was transferred to you after arraignment. For purposes of this question, “**Court Appearances**” **INCLUDES** the arraignment.

IMMIGRATION CONSEQUENCES

Did you and/or any member of the defense team ascertain the client’s immigration status?

- YES NO

Explanation: Check “Yes” even if you establish that your client is a United States citizen.

Did you consult with an attorney experienced in immigration and criminal law?

- YES NO N/A

Explanation: Select “N/A” if you have established that your client is a United States citizen.

Did you advise the client about any related immigration consequences?

- YES NO N/A

Explanation: Select “N/A” if you have established that your client is a United States citizen.

OTHER COLLATERAL CONSEQUENCES

Did you advise the client (whether or not a citizen) as to *other* collateral consequences of a conviction (i.e., employment, housing, higher education, family, etc.)?

YES NO

Explanation: This question covers all types of collateral consequences and should be answered in all cases regardless of the client's immigration status. You may select "Yes" if you referred your clients to colleagues and/or experts to specifically advise them of their collateral consequences.

INVESTIGATION

Was an investigator used in the case?

YES NO

Explanation: This covers the investigation of the alleged offense and other activities related to the preparation of the case. **'Investigators'** includes all persons responsible for assisting defense counsel with factual investigation including but not limited to identifying and interviewing witnesses and reviewing evidence. Do not include persons in this category if their primary responsibilities are process serving and/or screening of clients for financial eligibility.

Did you and/or any member of the defense team visit the crime scene?

YES NO N/A

Did you and/or a member of the defense team interview any potential witness(es)?

YES NO N/A

Explanation: For purposes of this form, a "potential witness[]" **DOES NOT INCLUDE** your client.

Did you and/or any member of the defense team request or subpoena records or videos (other than the client's rap sheet or discovery materials)?

YES NO N/A

Explanation: Records and videos to be considered for this question include, but are not limited to, driver abstracts, surveillance camera video, telephone records, cell tower data, audio recordings, DNA samples, medical information, etc. Select "Yes" if you issued a preservation letter.

Did you and/or any member of the defense team conduct legal research in the course of the case?

YES NO N/A

Explanation: Legal research is meant to capture substantive research activity, such as the use of LexisNexis, Westlaw, or legal treatises. Legal research **does not include** consulting with a supervisor, colleague, or even an expert on a case, which is addressed in subsequent questions on this form.

EXPERTS / INTERPRETERS

Was there physical or scientific evidence in the case?

YES NO N/A

Did you and/or any member of the defense team consult with or retain an expert in the course of the case?

YES NO N/A

(If YES, type of expert:)

Explanation: Please include any consultation with an expert during the course of representation whether or not the expert testified in court. “Expert” means anyone retained by you to provide specialized knowledge relevant to the case, e.g., medical, forensic, digital, accountant, DWI, etc. This section should not reflect general case brainstorming or other strategizing with a mentor, resource attorney or other colleague, which is addressed in subsequent questions on this form.

Did the expert testify in the case?

YES NO N/A

Explanation: If an expert was consulted, but did not testify at trial, please select “N/A” in response to this question.

Was a sentencing advocate, social worker, case worker, or other client advocate used in the case?

YES NO N/A

Explanation: Select “Yes” if you and/or any member of the defense team used the additional supports listed in this question.

Was English the client’s first language?

YES NO N/A

Explanation: Select “No” if your client’s first language is anything other than English, even if they are proficient and/or conversational in English.

If English was not your client’s first language, were they proficient in English and/or were you proficient in their primary language?

YES NO N/A

Explanation: Select “Yes” if there were no barriers to communication with your client due to their ability to speak and understand English or your ability to speak and understand their primary language.

Was an interpreter (professional or non-professional) used in the case?

YES NO N/A

Explanation: If either a professional *or* a non-professional interpreter (such as a staff member, friend, or family member) was used in the case, you should select “Yes” as the response to this question.

Indicate whether a professional or non-professional interpreter was used in the case:

Explanation: Describe whether the translation was provided by a professionally qualified interpreter or by someone other than a professionally qualified interpreter. If the interpreter was not professionally qualified, describe his/her connection to your office or the client (e.g. “office secretary,” or “client’s brother”).

Explain why an interpreter was not used even though English was not your client’s first language:

Explanation: If an interpreter was not used and English is not your client’s first language and/or your client is not proficient in English, explain why an interpreter was not required in the space above (e.g. “could not find an interpreter”).

Was an interpreter RETAINED by the defense to communicate with the client outside of court?

YES NO N/A

Explanation: Select “Yes” to this question **ONLY IF** an interpreter was **RETAINED** by you or your office to provide interpretation services. We understand that staff often play a dual role. Therefore, if someone in your office is qualified to provide interpreter/translation services and was *primarily hired to provide those services*, you should select “Yes”. If not their primary job function, they are not “retained” for purposes of this form. If your office provides access to a Language Line and this was used, please select “Yes”.

ADVICE SEEKING & BRAINSTORMING

Did you seek advice from any of the below on issues such as: legal, practice, investigation, sentencing, or client relations? **CHECK ALL THAT APPLY:**

No Advice Sought Resource Attorney Other:
 Supervisor Attorney Mentor
 ACP Panel Administrator /
Supervising Attorney

Explanation: This question is meant to cover interactions with individuals tasked with providing attorney support and supervision. For purposes of this question, a colleague is **not** a supervisor merely because he/she has seniority.

Did you seek advice on the case from a colleague (other than a supervisor), within or outside of your organization, on any issue such as: legal, practice, investigation, sentencing, or client relations?

YES NO N/A

Explanation: This question is meant to capture substantive advice, consultation, and/or brainstorming on the case from or with a colleague. A “colleague” may include another attorney in your office or, for assigned counsel programs, on your panel, and also attorneys from outside offices or other assigned counsel panels. For purposes of this question, a “colleague” is **NOT** a supervisor, expert, investigator, interpreter, social worker sentencing advocate, or a client advocate, all of which are captured in questions above. Advice sought on listservs may be included in this question.

COURT PROCEEDINGS

Were any of the following types of *motions* filed by the defense at any time during the case (CHECK ALL THAT APPLY)?

- Discovery demand YES NO N/A (If YES: oral written)
- Omnibus motion YES NO N/A (If YES: oral written)
- Motion in limine YES NO N/A (If YES: oral written)
- Motion to suppress evidence YES NO N/A (If YES: oral written)
- Motion to dismiss the case YES NO N/A (If YES: oral written)

Other:

Explanation: If you select “Yes” for any of the types of motions, check the appropriate box(es): oral, written, or both options. Check “Yes” for each individual action even if it is also included in an omnibus motion. For example, if your omnibus motion includes a motion to suppress evidence, you should check “Yes” for both the omnibus motion and the motion to suppress evidence. If you filed a motion that is not listed, include that information in the “Other” section above (e.g. adolescent / juvenile offender related motions in youth part).

Which of the following kinds of *hearings* were conducted in the case?

- Contested bail hearing (any time after initial arraignment) YES NO N/A
- Preliminary hearing YES NO N/A
- Suppression hearings YES NO N/A
- Molineux/Sandoval hearing YES NO N/A

Other:

Explanation: If your answer includes an “Other” type of hearing not listed, describe the type(s) of hearing that was/were conducted in the space provided above.

Did the case proceed to trial?

YES NO

(If YES: Jury Bench)

Explanation: For purposes of this form, a trial occurs when a witness is sworn and asked at least one question. If you select “Yes”, check the appropriate box: Jury or Bench.

Did you file a sentencing memorandum?

YES NO N/A

Did you file a notice of appeal?

YES NO N/A

Did you seek to protect your client’s right to counsel on appeal by assisting your client in completing the affidavit to appeal as a poor person and/or applying to the trial court pursuant to CPL § 380.55 for poor person relief on appeal?

YES NO N/A

CLIENT COMMUNICATION

After arraignment, how many days elapsed before you met with the client?

<1 day 1-2 days 3-5 days 6-10 days 11-20 days 21 days or more

Explanation: This question covers the number of days that elapsed between arraignment and the first **in-person** meeting with your client post-arraignment. For purposes of this form, a “first in-person meeting” post-arraignment is defined as a face-to-face/in-person meeting with the client. If you receive your assignment after the client’s arraignment, calculate the time that elapses from the **date of assignment (NOT THE DATE OF ARRAIGNMENT)** to the first in-person meeting with your client.

Total number of meetings with client in jail by you or any member of the defense team?

1 2 3 4 5 6 7 8 9 10 or more

Not detained post-arraignment

Explanation: This question is meant to cover the number of visits you and/or any member of your defense team made to a client in jail **post-arraignment**. Any client meetings with any member of the defense team, e.g., investigators, social workers, sentencing advocates, etc., should be included in the total. If unknown, please give your best guess.

DO NOT INCLUDE video conference or phone calls in this total. Such instances will be captured in the “Total number of meetings with client” question below. **DO NOT INCLUDE** meetings with your client at a pre-arraignment detention facility.

Total number of meetings with client (including telephone) outside of court or jail by you or any member of the defense team?

0 1 2 3 4 5 6 7 8 9 10 or more

Explanation: This question is meant to cover the number of contacts you and/or any member of your defense team had with your client without physically going to the jail. In-person, video conferencing, and phone calls should be included in this total. If unknown, please give your best guess.

ADDITIONAL CASE DETAILS

A response to this section is optional, but please consider answering the following types of questions:

1. What was your greatest accomplishment in this case?
2. What specific work did you do that you think affected the outcome of this case the most?
3. Were there any specific resources/ assistance that were lacking that you would have liked to utilize while working on this case?
4. What other details would you like to include about this case?

Thank you for completing the General Case Closing Form. If you have any questions, please contact your supervisor and/or panel administrator.

A copy of this form can be found on our website at: www.ils.ny.gov