

RULE 5 AND RULE 20 CASE OPENINGS BULLETIN

NEW CASE TYPE FOR RULE 5 REPRESENTATIONS (R5) AND MODIFICATION TO RULE 20 CASE OPENING RULE EFFECTIVE 10-28-2017

Summary

A new case type (R5) will be added to defenderData (dData) for Rule 5 case openings on October 28, 2017. This change also affects the guidance for Rule 20 cases. These new rules supersede the Rule 5 and Rule 20 case opening rules found in Chapter 18, Part III, Sections E1, and E1(g), pp 18-13 and 18-14 (rev. July 29, 2014).

Background

Federal Rule of Criminal Procedure 5(c) governs the appearance of a defendant who is arrested in one district on a warrant originating from another district. Appointments to represent defendants arrested on out-of-district warrants are commonly referred to as “Rule 5 transfer cases,” and most are resolved upon the issuance of an order directing the defendant’s return to the charging district. Under the old Chapter 18 rule, Rule 5 representations were opened under the case type generated by the charging document (indictment or complaint) from the charging district (e.g. CR, SR, PTR). A “Rule 5” box would be checked in dData. At the conclusion of the limited proceedings under Fed.R.Crim.P. 5(c), the case would be closed.

New R5 Case Type Discussion

Effective October 28, 2017, a Rule 5(c) transfer case should be opened using the new R5 case type. **Do not use the underlying charges to open a R5 transfer case.** The “Rule 5” box will be deactivated. If the client returns to the charging district, the case should be closed as a Rule 5 transfer using Disposition Code 212. No other case type should be opened. Disposition codes 801 and 808 may also be used.

Disposition Codes Changes

For cases opened after October 28, 2017, Disposition code 212 will only be available and appropriate in cases opened under the new R5 case type. Disposition code 212 will remain available to close current Rule 5 cases until November 17, 2017. Cases opened under the Chapter 18 guidance prior to October 28, 2017, should be closed before November 17, 2017, if at all possible. No other changes need to be made to cases opened before October 28, 2017.

Replacement Language for Rule 5 and Rule 20

NEW RULE 5 (R5 Case Type)

g. **Rule 5** (New, effective October 28, 2017)

A Rule 5 transfer case is opened when the office is appointed to represent a defendant who is arrested on a warrant originating from another district, pursuant to Fed.R.Crim.P. 5(c). A Rule 5 transfer case should be opened using the R5 case type. Do not use the underlying charges to open a Rule 5 transfer case. If the client returns to the charging district, the case should be closed as a Rule 5 transfer using Disposition Code 212. No other case type should be opened. Disposition codes 801 and 808 may also be used.

NEW RULE 20

h.) **Rule 20 Cases** (New, effective October 28, 2017)

Federal Rule of Criminal Procedure 20 permits transfer of a case from the district where charges are pending to the district of the defendant's arrest. When a case is transferred from the charging district for disposition pursuant to Federal Rule of Criminal Procedure 20, the R5 case should be closed, and a new CR case opened using the charging document from the charging district (listing all charges from that document). Upon completion, the case should be closed using the disposition code for guilty plea (101 or 201). Other disposition codes include 801 and 808.

In the rare instance of a transfer of a case out of district pursuant to Rule 20 where a CR case was opened previously upon appointment of the FDO, the CR case should be closed as a Rule 20 transfer (Disposition Code 213).