

Probation Transfers

**Operational Protocols &
Guidelines for Best Practices**

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Introduction

Over the past several years, it has become increasingly evident that the current operational practices surrounding the transfer of probation supervision pursuant to CPL 410.80 are fraught with inconsistencies in both interpretation and implementation. In response to the many inquiries that have been submitted to various OCA offices, and to assist the courts in facilitating a standardized approach to managing these cases, OCA's Counsels Office, Division of Financial Management, Office of Court Operations, Office of Policy & Planning, City, Town & Village Resource Renter, Office of Records Management, and Office of Criminal Disposition Reporting as well as the New York State Association of County Clerks and the Division of Criminal Justice Services have partnered in establishing a standard, statewide best practices policy for the management of probation transfers across all New York State Courts of criminal jurisdiction.

This guide has been created to assist court managers with the proper case management of these probation transfers in the areas of:

- Jurisdictional Considerations
- Sentencing/Sending Court Responsibilities
- Receiving Court Responsibilities
- Revenue Collection, Disbursement, & Reporting
- Enforcement Proceedings
- Certificates of Disposition
- Transfer of Interim Probation Supervision
- Records Management
- Relief from Civil Forfeitures and Disabilities
- Drug Treatment Court Supervision
- Conditional Sealing
- Orders of Protection & WebDVS
- Transfer of Case Records

Jurisdictional Considerations

CPL 410.80(2) states that: “Upon completion of transfer, the appropriate court within the jurisdiction of the receiving probation department shall assume all powers and duties of the sentencing court and shall have sole jurisdiction in the case including jurisdiction over matters specified in article twenty-three of the correction law.” The statement in support of this legislation indicates that it would *“ensure that the courts in the sending jurisdiction are not handling probation cases that are being supervised in another county, and that the courts in the receiving jurisdiction are not constrained in their ability to administer such cases properly and efficiently.”*

The use of the finite language “sole jurisdiction” in this section of law has posed significant hurdles for both the sending and receiving courts. While endeavoring to execute the most simple processes, court managers, judges, and probation departments in sentencing and receiving jurisdictions have disagreed as to what duties actually fall within their respective jurisdictions. In truth, in order for a receiving court to properly perform the duties associated with criminal disposition reporting, revenue collection/disbursement, notification to DMV, and post-judgment motions, the sentencing court must ultimately be involved. The mandate of CPL 410.80 does not account for the existing technological limitations that, in some instances, necessitate a partnership between the sentencing and receiving courts both during the term of probation supervision and thereafter.

Additionally, the 2010 NYS Court of Appeals decision, *People v. Mitchell* blurs the jurisdictional parameters, stating:

“the amendments to section 410.80 (2) were meant to transfer from sentencing courts to receiving courts the full range of powers and duties necessary for the judiciary to carry out its responsibilities to enforce the terms and conditions of probationers, and to deal with relief from forfeitures and disabilities. There is no suggestion in the statute's text or legislative history that the Legislature intended, in addition, to divest sentencing courts of their jurisdiction under article 440 of the Criminal Procedure Law.”

Given the complex administrative and operational issues involved in implementing the statute, with both courts maintaining jurisdiction over differing aspects of the case, OCA has taken the position that the actual physical file of record should ultimately reside with the original sentencing court. This process maintains a single file of record, ensures the overall integrity of that record and affords courts in both jurisdictions access to all relevant information about the case.

Sentencing/Sending Court Responsibilities

CPL 410.80(2) states that:

"Upon completion of transfer of probation as authorized pursuant to subdivision one... the sentencing court shall immediately forward its entire case record to the receiving court."

The transfer process is completed when the Probation Director or Designee in the receiving county signs the Order of Intrastate Transfer of Supervision and indicates that the residency of the probationer in the receiving jurisdiction has been acknowledged.

The statute does not specify that it must be the original case record. Thus, it has been determined that, for the purposes of probation transfer cases, a copy of the case record is sufficient for the receiving court to properly administer its associated duties. Despite the fact that there may be multiple transfers of the defendant's probation supervision across multiple counties, and that there may be filings and transactions occurring in the receiving court(s), the original sentencing court will ultimately maintain the original aggregate physical file of record, including all original papers issued by or filed with the respective receiving court(s).

When the sentencing court has received notification from the Department of Probation as to which court in the receiving county shall assume jurisdiction over the case, the court staff should:

- Prepare a copy of the case record to be transmitted to the receiving court.
 - **NOTE:** CPL 410.80(2) requires the entire case record to be transmitted. However, operational practicalities dictate that voluminous documents such as trial transcripts and motions that are not essential to the task of probation supervision need not be transmitted to the receiving court. Thus, the following minimum set of documents has been identified for transmission to the receiving court:
 - Accusatory Instrument
 - Supporting Depositions
 - Sentence Forms (i.e., Orders and Conditions of Probation, Sentence and Commitment, etc.)
 - Fine, Fee and Surcharge Forms
 - Restitution Orders
 - Orders of Protection

- License Suspension/Revocation Orders
- CDR 540 Form
- Other Court Orders
- Notification to Designated School Official (Criminal Form 6)
- Pre-sentence Investigation Report
- Certificate of Relief from Civil Forfeitures and Disabilities
- Sex Offender Risk Level Determination Findings
- Transcript of Civil Judgment (if applicable)
- Prepare a *Probation Transfer Case Summary (UCS-966)* form
- It is also recommended that the sentencing court schedule a control date shortly after the anticipated expiration of the term of the defendant's probation as a means to monitor payment activity and affect necessary notifications and criminal disposition reporting.

NOTE: The sentencing court should not report the transfer of probation to CDR or DMV.

If any new papers are filed with or issued by the receiving court, the originals should be forwarded as soon possible to the original sentencing court for consolidation with the file of record, and copies should be maintained by the receiving court. Upon receipt of these documents, the sentencing court should file them in the original file of record and the electronic and paper files should be updated as appropriate (e.g., fines/fees/surcharges paid, Certificate of Relief granted, subsequent transfers ordered, etc.). A *Probation Transfer Case Status Update (UCS-967)* form should be completed and accompany any documentation transferred between the sending and receiving courts as notification of any change in case status.

In the event that there are outstanding fine, fee or surcharge monies due at the time probation supervision is transferred to the receiving court, the sentencing court should expect to receive, receipt, disburse, and report any monies that may have been collected by the receiving court. This is discussed more fully in the Revenue Collection, Disbursement & Reporting section.

In general, the sentencing court should expect to maintain some level of communication with any of the receiving courts charged with jurisdictional oversight of the transferred probation case. Please see the Transfer of Case Records section for detailed instructions on the transmission of a digital copy of your court's case file.

Receiving Court Responsibilities

Various operational standards have been established regarding probation transfers. Many courts do not initialize a case management system record upon receipt of a probation transfer file, and only initialize a case management system record in the event of a probation violation. However, despite the absence of case activity on many probation transfer cases, best practices dictate that any court having jurisdiction over a case and custody of a case record (even if it is just a copy) must establish some minimal, traceable indication that a case exists in that court.

Receipt of File

When the copy of the case record is received from the sentencing/sending court, the receiving court should:

- Immediately verify that the record corresponds with the information detailed in the transfer order and the *Probation Transfer Case Summary (UCS-966)* form
- Acknowledge receipt of the copy of the case from the sentencing/sending court by reply e-mail
- Assign an administrative case number that is specific to the receiving court
- Initialize an electronic record of the case in the case management system (i.e., CRIMS, ADBM, UCMS, SEi). This electronic case record should include, at a minimum:
 - Probationer's Name
 - Probationer's Address
 - Probationer's Date of Birth
 - NYSID (except for CRIMS courts - see note below)
 - CJTN (except for CRIMS courts - see note below)
 - Name of Sentencing Court
 - Sentencing Court's Case Number
 - Indication that it is a Probation Transfer case
 - Schedule Control Date (at anticipated expiration of term of probation)
 - Indicate existence of any active Orders of Protection
 - ▶ **NOTE:** In the event of a Violation of Probation finding and re-sentence, additional data entry, including conviction charges, NYSID & CJTN (for CRIMS courts), etc, must be performed in order to properly report re-sentences to DCJS.
- Determine if there are any outstanding fine, fee or surcharge monies due
- File the copy of the case file appropriately

- Schedule a control date for 60 days prior to the anticipated expiration of the term of probation for the purposes of ensuring compliance with the orders and conditions of probation before the term of probation expires
- **NOTE for ADBM courts:** When initializing a probation transfer case record, make certain that 540 = “No”. This will prevent upload of any data to DCJS or DMV. The 540 field should be changed to “Yes” only when a defendant is re-sentenced on a violation of probation in order to report the new sentence to DCJS.
- **NOTE for SEi courts:** When initializing a probation transfer case record, make certain that the “Report Date” field is left blank. This will prevent upload of any data to DCJS or DMV. The “Report Date” field should be completed only when a defendant is re-sentenced on a violation of probation in order to report the new sentence to DCJS.
- **NOTE for CRIMS courts:** When initializing a probation transfer case record, make certain that the NYSID and CJTN fields are left blank. This will prevent upload of any data to DCJS or DMV. These fields should be completed only when a defendant is re-sentenced on a violation of probation in order to report the new sentence to DCJS.
- **NOTE for UCMS courts:** When initializing a probation transfer case record from a non-UCMS court, create a “PT” (Probation Transfer) case containing at least the minimum data outlined above. When initializing a probation transfer case record from another UCMS court, the transfer function will automatically import all case data from the sending court into the receiving court’s case record.

The receiving court shall maintain a copy of the case record forwarded by the sentencing/sending court. In the event that new papers are filed with or issued by the receiving court, the receiving court should maintain copies of those documents while forwarding the original documents to the original sentencing court as soon as possible.

Subsequent Transfer

In the event of a subsequent transfer to another receiving court, the court exercising jurisdiction over the probationer’s case should:

- Prepare and attach a *Probation Transfer Case Summary (UCS-966)* form detailing the status of the probationer’s case and forward a copy to the new receiving court as well as the original sentencing court
- Copy the aggregate case record and forward it to the new receiving court
- Forward all original papers filed with or issued by the receiving court to the sentencing court for consolidation with the file of record, or if there has been no new documentation issued or filed in connection with the probationer’s case, indicate such in the *Probation Transfer Case Summary (UCS-966)* form.

- Maintain a copy of the aggregate case record in accordance with OCA Records Retention Schedules

Expiration or Termination of the Defendant's Probation

The receiving court exercising jurisdiction at the expiration or termination of the defendant's probation should:

- Maintain a copy of the aggregate case record in accordance with OCA Records Retention Schedules
- Prepare and attach a *Notice of Termination/Expiration of Probation Supervision (UCS-968)* form detailing the status of the probationer's case and forward it to the original sentencing court
- Forward all original papers filed with or issued by the receiving court to the original sentencing court for consolidation with the file of record, or if there has been no new documentation issued or filed in connection with the probationer's case, indicate such in the *Notice of Termination/Expiration of Probation Supervision (UCS-968)* form. *(NOTE: Permission to destroy records pursuant to records retention schedules shall not be granted without verification that this has been done.)*

Revenue Collection, Disbursement & Reporting

Once the probation department notifies the sentencing/sending court which receiving court will assume jurisdiction, the court must transfer a copy of its case record to the receiving court. The case record should include a *Probation Transfer Case Summary (UCS-966)* form with an itemized summary of any outstanding fines, fees, and surcharges due.

The probationer should be advised that, upon transfer of their case, all outstanding fines, fees and surcharges should continue to be paid to the sentencing court. Probationers should be further advised that, if submitting payments to the sentencing court by mail, a proper method of payment such as a money order or certified check must be remitted and that cash and personal checks are not acceptable methods of payment by mail.

There will most certainly be occasions where probationers (or probation departments on the probationer's behalf) remit outstanding monies to the receiving court rather than the sentencing court. Despite any existing policies, the Office of Court Administration's Division of Financial Management (DFM) maintains that all courts are obligated to receipt any monies, including partial payments, that come under their control. Therefore, any court receiving such payment should accept and receipt the funds. Additionally, it is inconsistent with UCS standards to refuse a willing payer, or to require the payer who made payments to the receiving court to apply for a refund after their monies had been receipted. Thus, if a receiving court accepts and receipts outstanding monies on a probation transfer case, that court should process the payment pursuant to the procedure below and promptly forward the payment and receipt to the sentencing court. Upon receipt of this payment, the sentencing court should make appropriate notations in its case management system and on its court file to indicate the monies paid and appropriately disburse the funds and report the payments.

Upon receipt of the monies from the probationer, the sentencing court shall be responsible for:

- Receipting and classifying the funds in their cashiering system
- Disbursing the funds to the appropriate state, county and local municipalities, or OSC for the town & village courts
- Updating their case management system to indicate that fines, fees and surcharges have been paid.
- For ADBM and SEi courts, resubmit UCS-540 to OCA/DCJS and, where appropriate, a TSLED record to TSLED to report payment

NOTE: This payment information is also transmitted from DCJS to the FBI.

Upon receipt of monies from the receiving court, the sentencing court shall be responsible for:

- Receipting and classifying the funds in their cashiering system as if they had been paid into that court in the first instance
- Forwarding a copy of the receipt and details of the transaction to the receiving court so that their copy of the case file is reconciled with the file of record
- Make appropriate notes to indicate that the monies were received from the receiving court
- Follow all case management and disbursement procedures detailed above

As discussed in the “Jurisdictional Considerations” section, only the sentencing court has the ability to appropriately disburse and report the collection of outstanding monies through their criminal case management system. Therefore, when outstanding monies are paid into the receiving court, that court shall be responsible for:

- Receipting the funds
- Classifying them as *miscellaneous in their cashiering system
- Remitting a check to the original sentencing court for the entire amount paid no later than the 10th of each month for SFS reporting purposes
- Making appropriate notations in their case management system and on their copy of the court file to indicate the monies paid
- Notify the supervising probation department of the payment to prevent an unwarranted violation proceeding

**The receiving court should not classify these funds in such a way that enables the State Financial System (SFS) to deduct monies from their court’s accounts, nor should this court disburse these funds to the state, any local entity, or the Office of the State Comptroller(OSC). For the state funded courts utilizing the statewide ADBM Cashiering System, the new "Probation Transfer-Fines/Fees" Product Code # 311341 has been created for this purpose.*

Although a probationer’s case may be transferred to successive courts and jurisdictions, the original sentencing court continues to be the only court that can properly and effectively disburse and report the payment of fines, fees and surcharges.

Revenue Collection, Disbursement & Reporting

Special Considerations for Town & Village Courts using SEi

Sentencing Town or Village Court

When outstanding monies are received by the original sentencing court, receipt the monies, and then, disburse and report to the Justice Court Fund (JCF) as if jurisdiction had never been transferred. If all outstanding fines, fees and surcharges have been paid in full, the appropriate disposition reporting to DCJS and/or TSLED should be performed.

If monies are received from the receiving court, the receiving court's receipt number should be cross-referenced in the appropriate notes/remarks section of SEi, and the sentencing court should provide the receiving court with an electronic copy of their receipt.

Receiving Town or Village Court

Where a Town or Village court collects outstanding fines, fees or surcharges on behalf of the sentencing court, the court should utilize the "Other" field in SEi to record payment of these monies. Once recorded and receipted, the court can deposit these monies, and remit a check to the original sentencing court.

Enforcement Proceedings

(Scoffs, Termination of Suspension Fees, Warrants)

It cannot be overstated that, all electronic reporting to DCJS and DMV can only be properly performed by the original sentencing court. The only exception to this rule is the reporting of re-sentences for violations of probation to DCJS, which can only be properly performed by the receiving court. Therefore, when the receiving court initiates enforcement proceedings in connection with non-payment of fines, fees and surcharges; or failure to appear warrants; or declaration of delinquency/violation of probation warrants, the court must be keenly aware of the technological limitations that currently exist in reporting these actions.

Scoffs

If a probationer is convicted of applicable charges and fails to appear and/or pay fines, fees and surcharges, thereby justifying the suspension of their driver's license or registration, only the original sentencing court can effectively report such action to DMV even if the action is ordered by the receiving court. Likewise, any notification to DMV to lift a suspension must also be made by the original sentencing court. This will require ongoing communication between the two courts to ensure the probationer's driving record is current and accurate.

Termination of Suspension Fees

The payment procedures outlined in the "Revenue Collection, Disbursement & Reporting" section also applies to termination of suspension fees [VTL § 503(2)(j-1)(l)]. However, if payment is made in the receiving court, those monies should be remitted to the sentencing court immediately for processing the termination of suspension.

Warrants

If the receiving court issues a warrant based upon an alleged violation of probation, the warrant will not appear in the e-Justice arrest cycle for that case. The only indication of a VOP warrant issued by a receiving court exists in the "Wanted" section at the bottom of the rap sheet. This may be problematic when the original sentencing court is asked to prepare a criminal Certificate of Disposition.

Sex Offender Risk Level Assessment

The district attorney must appear at the risk level assessment proceeding and must set forth in writing the risk level sought and the reasons therefor. Moreover, the district attorney must prove by clear and convincing evidence that the facts support the risk level sought. Since the district attorney who prosecuted the case and obtained the conviction is singularly equipped for this role, and since the probation department does not have a statutory role in the SORA risk level assessment proceeding, the sex offender risk level assessment should be determined by the original sentencing court.

CPL 410.80(1) states, “Where a probationer at the time of sentencing resides in another jurisdiction within the state, the sentencing court shall transfer supervision to the appropriate probation department in such other jurisdiction.” However, in scenarios where probation is transferred at the time of sentencing and the risk level determination has not yet been made, consider the following:

The probation transfer, although ordered, is not complete until the Probation Director or Designee in the receiving county signs the Order of Intrastate Transfer of Supervision and indicates that the residency of the probationer in the receiving jurisdiction has been acknowledged. Therefore, as a practical matter, the court has additional time to make the risk level determination after sentence has been imposed. Moreover, similarly to the filing of a CPL 440 motion, the *People v. Mitchell* decision has established that there is no prohibition against the sentencing court acting upon facets of a case over which it retains jurisdiction even after probation supervision is transferred, and that jurisdiction includes sex offender risk level determinations.

Certificates of Relief from Civil Forfeitures and Disabilities

CPL § 410.80(2) specifically states the receiving court supervising the probationer shall have “...jurisdiction over matters specified in article twenty-three of the correction law.” Thus, applications for a certificate of relief from civil forfeitures and disabilities must be made before the current receiving court, and that court is solely empowered to grant or deny such an application. Moreover, applications for a certificate of relief from civil forfeitures and disabilities made after the completion of a probationary sentence must still be made before the court that last supervised the probationer, not the original sentencing court.

However, if the original sentence of probation is vacated pursuant to a CPL § 440 decision by the sentencing court, or the sentence/judgment of conviction is reversed by an appellate court, the jurisdiction to grant a certificate of relief from civil forfeitures and disabilities would revert back to the original sentencing court unless and until the defendant is subsequently re-sentenced to probation and the probationary supervision is once again transferred.

Irrespective of which court grants a Certificate of Relief, once granted, the Certificate of Relief must be filed with the Division of Criminal Justice Services (DCJS).

Certificates of Disposition

There is currently no law or rule that standardizes a criminal Certificate of Disposition (COD). *[Note: Some jurisdictions refer to this form as a Certificate of Conviction.]* Moreover, some courts will only issue a COD if a case is disposed, while others will issue the form on a pending case to indicate its current status.

OCA's Counsel's Office and the DCAJ's Operational Liaisons have developed standard templates for criminal Certificates of Disposition. In this process, it has been determined that, because the form title implies that the form contains the case disposition, it should not be issued as a case status on pending actions. Another form should be utilized for that purpose.

Issuing an accurate criminal Certificate of Disposition is complicated by the necessity of maintaining copies of a probationer's case record in different jurisdictions. As long as the law permits the case to exist simultaneously in two jurisdictions, the possibility for an asynchronous record also exists. However, once the sentence has been executed in the sentencing court, there are very few post-sentence events that could modify the information on a criminal COD. Except for a re-sentence for a Violation of Probation in the receiving court, any post-sentence action (e.g., vacating/amending the original sentence or judgment of conviction pursuant to an appellate ruling, CPL 440 motion, or Drug Court "agreement"; CPL 160.58 conditional sealing; etc.) must be adjudicated in the original sentencing court. Thus, if a probationer's case has not been subject to a VOP re-sentence, a criminal COD is best issued by the original sentencing court. If the probationer has been re-sentenced for a VOP in the receiving court, the COD is then best issued by the receiving court.

Regardless of whether the a criminal Certificate of Disposition is requested in the sentencing court or the receiving court, the court that received the request should seek to verify the case status in the other jurisdiction prior to issuing a certificate.

Interim Transfer of Probation Supervision

On August 1, 2012, L.2012, c.347 was signed into law, thereby amending CPL 410.80 and CPL 216.05 (Judicial Diversion) to include provisions for the transfer of interim probation supervision. It should be noted that there are jurisdictional and operational distinctions between the transfer of interim and post-sentence probation supervision.

With regard to post-sentence transfers, the court designated by the department of probation in the receiving county assumes jurisdiction over the case. However, with regard to transfers of interim probation supervision, CPL 410.80(2)(b) states that the sentencing court retains jurisdiction during the period of interim probation. Therefore, the operational procedures that have been detailed in this guide do not apply to interim transfers.

Vacating or Modifying Existing Orders of Protection

The sentencing court may issue an Order of Protection as a part of the probationer's sentence, and the receiving court may find cause to vacate or modify that order. The receiving court has the statutory authority to take action on the existing order, and if the receiving court finds cause to vacate or modify an existing order of protection issued by the sentencing court, the sentencing court must vacate its Order of Protection¹ before a new order may be issued or the existing order may be modified by the receiving court. As with other areas of cross-jurisdictional case management, communication and cooperation between the two courts is imperative. Upon vacating or modifying the Order of Protection issued by the sentencing court, the receiving court should complete a *Probation Transfer Case Status Change form (UCS-967)* and send it to the original sentencing court along with the original copy of the Order of Protection it has issued to be placed in the file of record.

¹**NOTE:** Receiving courts using the UCMS-Criminal application will be permitted to vacate existing Orders of Protection issued by the sentencing/sending court.

Consideration for Drug Treatment & Judicial Diversion Cases

Conditional Sealing pursuant to CPL § 160.58 and Probation Transfers

CPL § 160.58 provides for conditional sealing of certain PL §§ 220 & 221 convictions, as well as certain specified offenses detailed in CPL §410.91(5). Generally, there are three scenarios where such conditional sealing may be applied.

The Primary Case

- A court that sentenced a defendant to a judicially sanctioned drug treatment program may, upon its own motion or upon the defendant's motion, order conditional sealing of all official records relating to the arrest, prosecution and conviction which resulted in the defendant's participation in the judicially sanctioned drug treatment program. The defendant must have completed the imposed sentence to be eligible for such conditional sealing.

Eligible Misdemeanor Cases

- In addition to conditionally sealing the primary case, the court may also conditionally seal the arrest, prosecution and conviction records for up to three of the defendant's prior PL § 220 or 221 misdemeanor convictions. Although the court conditionally sealing the primary case also orders sealing of the eligible misdemeanors, the judgment of conviction for an eligible misdemeanor need not have been entered in the same court as the primary case. Thus, the "primary court" may conditionally seal an eligible misdemeanor conviction entered in any court of criminal jurisdiction within the state. As with the primary case, in order to be eligible for such conditional sealing, the defendant must have completed the sentence imposed for such eligible misdemeanor conviction.

Covered Cases

- If any eligible conviction that is conditionally sealed covered other charges, the covered charges are also eligible for conditional sealing pursuant to CPL § 160.58 even if they would not have otherwise been eligible.

Unsealing and Conditionally Resealing

- By operation of law, all cases conditionally sealed pursuant to CPL § 160.58 are unsealed if the defendant is subsequently rearrested for and charged with a new crime. Once unsealed, the case(s) may be resealed, conditionally, if the new arrest results in a disposition favorable to the defendant pursuant to CPL § 160.50 or in a non-criminal conviction pursuant to CPL § 160.55.
- Since an order to conditionally seal a case pursuant to CPL § 160.58 may come from any court of criminal jurisdiction in the state, it is imperative for all courts and county clerks to be aware of the statutory provisions concerning the sealing, unsealing and resealing of eligible convictions. With regard to probation transfers, any receiving courts that had exercised jurisdiction over cases that are later sealed pursuant to CPL § 160.58 by the original sentencing court must ensure that any electronic or paper records in their jurisdiction are also conditionally sealed, unsealed, or resealed as circumstances dictate and as required by law.

Records Management

The “file of record” permanently resides in the original sentencing court even if probation supervision is transferred to another jurisdiction and/or the defendant is re-sentenced on a violation of probation in the receiving court. Therefore, the original sentencing court must retain the file for the full retention period as detailed in the applicable OCA Records Management Retention Schedules:

- For local criminal courts, the full retention period for convictions for misdemeanors defined in the Penal Law, Vehicle and Traffic Law and other statutes is twenty-five (25) years. [see *CRIMINAL RECORDS OF THE CRIMINAL COURT OF THE CITY OF NEW YORK, CITY COURTS, DISTRICT COURTS AND TOWN AND VILLAGE COURTS*: Series # 80010 - Criminal misdemeanors a.) disposed cases]
- For Supreme and County Courts, the full retention period for convictions for felonies initiated either by a grand jury indictment or Superior Court Information is fifty (50) years. [see *CRIMINAL RECORDS OF THE SUPREME AND COUNTY COURTS*: Series # 30010 - Felony case files a.) disposed cases]

All original papers filed with or issued by a receiving court must be forwarded to the original sentencing court as soon as possible for consolidation with the file of record.

For receiving courts, OCA Records Retention Schedules require a minimum retention period of one (1) year following final disposition of the case (i.e., expiration or termination of probation supervision or a re-sentence for a violation of probation) for transfers received for the purposes of probation supervision. [see *CRIMINAL RECORDS OF THE CRIMINAL COURT OF THE CITY OF NEW YORK, CITY COURTS, DISTRICT COURTS AND TOWN AND VILLAGE COURTS*: Series # 80055 - Transferred case files and/or *CRIMINAL RECORDS OF THE SUPREME AND COUNTY COURTS*: Series # 30055 - Transferred case files] However, because the final receiving court retains jurisdiction over certain aspects of the case even after its probation supervision role has ended (e.g., Certificates of Relief from Civil Forfeitures and Disabilities), an extended retention period of five (5) years is strongly recommended for copies of court records received for the purposes of transfer of probation supervision.

Upon the termination or expiration of probation, the current receiving court should complete a *Notice of Termination/Expiration of Probation Supervision (UCS-968)* form. It should be noted that permission to destroy records pursuant to records retention schedules shall not be granted without verification that this has been done.

Transfer of Case Records

As with other aspects of probation transfers, the practice of forwarding the case record to the receiving court has been handled inconsistently across the state. CPL 410.80(2) states that, upon completion of the transfer, "...the sentencing court shall immediately forward its entire case record to the receiving court." Historically, many courts do not forward a copy of the case record unless it is requested by the receiving court due to a violation of probation. This practice does not comply with the statute, and a record must be sent for every transfer at the time it occurs. Moreover, the statute does not specify that the original case record must be transferred, and thus, the original file must be maintained in the sentencing court, and a copy sent to the receiving court.

In order to conserve time and resources, it is strongly recommended that case records are forwarded electronically. To that end, the Division of Technology has developed a simple application to transmit PDF documents between courts via the UCS GroupWise e-mail system, which provides the sending and receiving courts with an efficient and streamlined method of transferring files. UCS GroupWise is a private, secure, encrypted means of file transfer and eliminates any concerns regarding interception/hacking of sealed or confidential case information. Under no circumstances should case records be sent using a third-party e-mail server (e.g., AOL, Gmail, Hotmail, etc) because they are not secure. Electronic transmission alleviates the burden and expense of copying, packaging, mailing and storing paper files that the receiving court may never need to reference. Thus, it is recommended that, upon receipt of PDF case documents, they should be saved and maintained on a network drive accessible to appropriate court staff until such time that a printed copy is needed. Alternatively, the receiving court may choose to print the case file upon receipt and store hard copies. However, as a practical matter, the court should weigh the cost/benefit of this approach.

For state-funded courts, Chief and Deputy Chief Clerks and up to two additional recipients have been designated to receive probation transfers electronically. For Town & Village Courts, all Judges and Court Clerks with a GroupWise e-mail account will receive probation transfers electronically for their respective courts. A comprehensive recipient directory for all courts of criminal jurisdiction is provided on both the Inside-UCS and City, Town & Village Resource Center websites.

The Probation Transfer Recipient Directory provides the contact information for every court of criminal jurisdiction in New York State. To transfer probation transfer files electronically, find the name of the recipient court. Then, highlight and copy the corresponding e-mail addresses in the “e-mail Group” column.

It is strongly recommended that the online directory is utilized exclusively to ascertain the e-mail recipient group in the receiving court rather than a printed or locally-saved copy. Printed or saved copies will become out-of-date over time, but the online directory will be kept current and will ensure the correct recipients.

NOTE: Mailing address information is also provided for courts that elect to send hard copies by regular mail. However, this practice is much more costly and less efficient, and therefore, the recommendation is for all courts to utilize the electronic file transfer protocol.

Sample of the Probation Transfer Recipient Directory:

Court	District	e-mail Group	First Name	Last Name	Title	Street Address 2	City	State	Zip Code
Albany City Court	3rd JD	AMANCINO@nycourts.gov, LLEE@nycourts.gov	Anthony Laureen	Mancino Lee	Chf Clerk II Dep Chf Clerk II	1 Morton Avenue	Albany	NY	12202
Albany County Court	3rd JD	CDIAMOND@nycourts.gov, DDDONNEL@nycourts.gov, MHARTMAN@nycourts.gov	Charles Dawn Maureen	Diamond Donnelly Hartmann	Chf Clerk IV Asc Court Clerk Asc Court Clerk	16 Eagle Street	Albany	NY	12207
Alliegany County Court	8th JD	LGABLER@nycourts.gov, LOCONNEL@nycourts.gov	Laura Lisa	Gabler O'Connell	Chf Clerk I Com Of Jurors I	7 Court Street	Belmont	NY	14813
Amsterdam City Court	4th JD	DBUBNIJAK@nycourts.gov, MAHARTMA@nycourts.gov	Dolores Melanie	Bubniak Hartman	Court Revenue Assistant Chf Clerk I	1 Guy Park Avenue	Amsterdam	NY	12010
Auburn City Court	7th JD	DROBILLA@nycourts.gov	Deborah	Robillard	Chf Clerk II	157 Genesee Street	Auburn	NY	13021
Batavia City Court	8th JD	PDABELLA@nycourts.gov	Paula	Dabella	Chf Clerk I	1 West Main Street	Batavia	NY	14020
Beacon City Court	9th JD	DANTONEL@nycourts.gov, CORTIZ@nycourts.gov, MVALENTI@nycourts.gov	Debra Emilda Marcelina	Antonelli Nieves-Oritz Valentin	Chf Clerk II Snr Court Office Assistant Snr Court Office Assistant	1 Municipal Plaza	Beacon	NY	12508
Binghamton City Court	6th JD	SBAKER@nycourts.gov, CMALONEY@nycourts.gov	Sherry Catherine	Baker Maloney	Dep Chf Clerk III Chf Clerk III	38 Hawley Street	Binghamton	NY	13901
Bronx Supreme Court-Criminal Term	12th JD	SBCLARK@nycourts.gov, MFOGGIE@nycourts.gov	Steven Michelle	Clark Foggie	Chf Clerk VII First Dep Chf Clerk	265 East 161st Street	Bronx	NY	10451
Broome County Court	6th JD	MMONACO@nycourts.gov, KSTEPHEN@nycourts.gov, SYOUNG@nycourts.gov	Maria Karen Sallie	Monaco Stephens Young	Snr Court Office Assistant Key Court Clerk Chf Clerk II	65 Hawley Street	Binghamton	NY	13901
Buffalo City Court	8th JD	KDELMONT@nycourts.gov, DIMOONNO@nycourts.gov, CROESER@nycourts.gov, STHOMAS@nycourts.gov	Kim Donna Chantel Sharon	Delmont O'Connor Roeser Thomas	Dep Chf Clerk IV Court Clerk Court Clerk Chf Clerk IV	50 Delaware Avenue	Buffalo	NY	14202
Canandaigua City Court	7th JD	KDEWOLF@nycourts.gov, LRGARDNE@nycourts.gov	Kirsta Lisa	DeWolf Gardner	Court Assistant Chf Clerk I	2 North Main Street	Canandaigua	NY	14424
Cattaraugus County Court	8th JD	VDRV@nycourts.gov, JSTJOHN@nycourts.gov	Verna Jane	Dry St. John	Chf Clerk II Dep Chf Clerk II	303 Court Street	Little Valley	NY	14755
Cayuga County Court	7th JD	KCUNNING@nycourts.gov, NQWILL@nycourts.gov, KWEIKO@nycourts.gov	Kathleen Nancy Kelly	Cunningham Quill Wejko	Court Assistant Court Assistant Chf Clerk IV COJ*	152 Genesee Street	Auburn	NY	13021
Chautauque County Court	8th JD	JHELMAN@nycourts.gov, KKRAUZA@nycourts.gov	Judith Kathleen	Helman Krausa	Dep Chf Clerk II Chf Clerk III	1 North Erie Street	Mayville	NY	14757
Chemung County Court	6th JD	JGOODWIN@nycourts.gov, CMKENEFI@nycourts.gov, NKREISLE@nycourts.gov	Joy Colleen Nancy	Goodwin Kenefick Kreiser	Court Assistant Snr Court Office Assistant Com Of Jurors II	203-205 Lake Street	Elmira	NY	14901
Chenango County Court	6th JD	RGRADY@nycourts.gov, CSHELL@nycourts.gov	Rose Catherine	Grady Schell	Dep Chf Clerk I Chf Clerk I	5 Court Street	Norwich	NY	13815
Clinton County Court	4th JD	DDURKIN@nycourts.gov, JLAVIGNE@nycourts.gov, CMAZURAK@nycourts.gov	Denise Jan Catherine	Durkin Lavigne Mazurak	Court Assistant Chf Clerk II Dep Chf Clerk I	137 Margaret Street	Plattsburgh	NY	12901
Cohoes City Court	3rd JD	EBAKAITI@nycourts.gov, PEPETITI@nycourts.gov	Eileen Patricia	Bakaitis Pettit	Snr Court Office Assistant Key Chf Clerk I	97 Mohawk Street	Cohoes	NY	12047
Columbia County Court	3rd JD	CMCMURRA@nycourts.gov, DMORELOC@nycourts.gov	Chris Diana	McMurray Morelock	Dep Chf Clerk II Chf Clerk II	401 Union Street	Hudson	NY	12534

Paste the e-mail recipient group in the “Mail to:” field and complete the other case data. The reason of “PROBATION TRANSFER” will be automatically pre-filled. You will need to enter your Court’s name in the “Sending court” field and your GroupWise e-mail address in the “Mail from:” field the first time you use the application. This information will be saved as a user setting, and subsequently, your court name and GroupWise e-mail address will be automatically pre-filled by the application.

NOTE: The application will only permit the use of GroupWise e-mail addresses (i.e., @nycourts.gov or @courts.state.ny.us) in the “Mail to:” and “Mail from:” fields. Attempting to use third-party e-mail addresses in this application will result in an error message.

Criminal case files are often voluminous, and when scanned, may result in digital files that exceed e-mail attachment limits. However, the Division of Technology’s application is designed to automatically divide PDF files that exceed the attachment limit into smaller segments that will not be rejected by the e-mail system. When this occurs, each segment will be sequentially numbered and automatically sent in a separate e-mail. Conversely, if a number of smaller PDF files are uploaded for a single case, the application will automatically combine them into a single PDF file (up to the attachment limit) for transmission. Using this application for all probation transfers will ensure an efficient standard format for sending and receiving these cases. Links to install the Combine/Split PDF application are provided online on both the Inside-UCS and Town & Village Resource Center webpages.

The screenshot shows a software application window titled "Combine / Split PDF Documents for E-Mail". The interface is divided into several sections:

- Reason:** A dropdown menu with "PROBATION TRANSFER" selected.
- Sending court:** A text field containing "Albany County Court".
- Docket/case no.:** A text field containing "01371-2011".
- Defendant name:** A text field containing "Anderson, Keith".
- Defendant DOB:** A date picker showing "7/ 9/1970" and a calendar icon. Below it is an unchecked checkbox labeled "Unknown DOB".
- Mail from:** A text field containing "wperritt@nycourts.gov".
- Mail to:** A text field with the instruction "(enter one e-mail address per line)". It contains three email addresses: "CDIAMOND@nycourts.gov", "DDDONNEL@nycourts.gov", and "MHARTMAN@nycourts.gov".
- Additional Comments:** A large empty text area.
- PDF documents to attach:** A list box containing one entry: "Anderson, Keith # 01371-2011.pdf".
- Total size:** A label indicating "1.48MB".
- Buttons:** "Add", "Remove", "Save and send manually", and "Send automatically".

Once installed, a “Send Probation Transfer” icon will appear on your computer desktop. Double-clicking the icon will open the application.

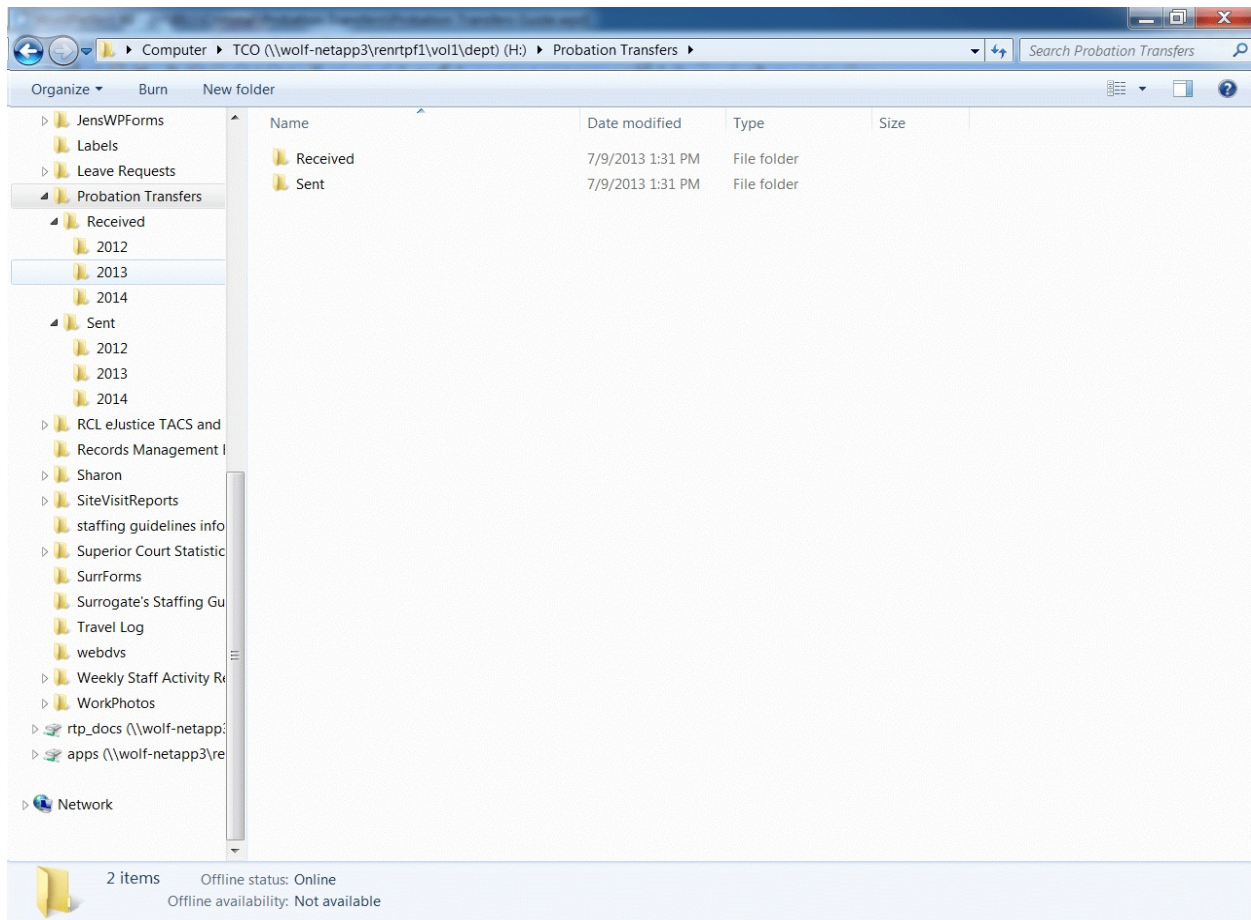
NOTE: DoT has replicated this application to electronically send files between courts for reasons other than probation transfers. The executable (EXE) file for this will be sent along with the one for probation transfers. Running the second executable file will install a second icon on your computer desktop labeled “Send Other PDF” as shown below.

Installed Probation Transfer icons:



When electronically sending a probation transfer case file, scan the required documents from the court file and save them to a shared network drive in PDF format. The documents can be scanned as a group or separately. To maintain electronic probation transfer files, establish two folders on a shared network drive in your court. One folder should be dedicated to saving PDF files of sent probation transfers, and the other should be dedicated to saving PDF files of received probation transfers. Appropriate staff should be granted access to these shared drive folders for records retrieval.

Example of shared network drive for probation transfer files:



NOTE: All of the materials referenced in this guide, including forms, e-mail recipient directories, and the electronic file transfer application installer, are available online as follows:

For state-funded courts:

<http://inside-ucs.org/courts/probationtransfers/index.shtml>

For town & village courts:

http://www.nycourts.gov/courts/townandvillage/judges_only/probationtransfers/