

## **8.7 Attorney Representation**

### **A. Attorney for Respondent**

Upon determination by the second examiner that the criteria for involuntary commitment exist, a district court hearing must be held within ten days of the date the respondent was taken into custody. G.S. 122C-268(a). The respondent is then entitled to representation for the involuntary commitment hearing. Special Counsel represents respondents held at a state facility. G.S. 122C-270(a). Counsel is appointed for respondents held at other facilities. For a discussion of the role and responsibilities of counsel, see *infra* Appendix C, “Working with Clients.”

The criminal defense attorney does not ordinarily represent the respondent at the involuntary commitment hearing.

### **B. Attorney for State**

Attorney representation for the state’s interest is generally the same as for respondents not found incapable of proceeding. *See supra* § 2.5B. The exception is that the district attorney for the county where the respondent was charged with a violent crime and was found incapable of proceeding may elect to represent the state’s interest at the commitment hearing. G.S. 122C-268(c). Otherwise, because a defendant found incapable of proceeding is usually sent to one of the state facilities, the staff attorney from the Attorney General’s office assigned to the facility will represent the state. G.S. 122C-268(b).