



GENERAL ORDER

Loudoun County Sheriff's Office

Chapter: Operations

Section: 401.11

Subject: Operational Functions

Topic: Court Procedures

Accreditation:

Revised:

Reaffirmed:

Enacted: 07/30/2015

Last Review: 07/24/2015

Review: 07/30/2016

I. PURPOSE

The purpose of this General Order is to establish policy and standardize departmental procedures regarding court preparation and the prosecution of cases.

II. POLICY

It shall be the policy of the Loudoun County Sheriff's Office to ensure deputies prepare every case thoroughly, cooperate with the prosecuting attorney, and present evidence in a competent and professional manner. Each deputy's image reflects upon the agency as well as the court.

III. GENERAL

- A. Deputies appearing in court shall wear the uniform of the day or proper business attire in accordance with General Order 308.
- B. Deputies shall be in the court room prepared to testify one-half hour prior to the scheduled time of the court hearing.
- C. In most misdemeanor and traffic offenses, the arresting deputy normally has the sole responsibility for case preparation and presentation. In all cases, deputies shall appear on time, with any required documentation of prior convictions and/or driving records, and be prepared to move forward with prosecution.
- D. Deputies will conduct themselves in such a manner as to create a favorable impression at all times. Proper decorum will be maintained not only in the courtroom, but also in all areas of the court complex.
- E. Whenever witnesses are to appear in court, deputies shall request that the Commonwealth's Attorney Office issue a subpoena. The request for the issuance of the subpoena should be made at least twenty (20) working days prior to the trial date. The deputy shall use the Subpoena for Witnesses (DC-326) form when requesting witnesses (Attachment 1).
- F. Assigned court dates are considered duty assignments and will only be cancelled for approved reasons (approved annual leave, approved sick leave, or out of county training). Exceptions will not be made. Requests for the cancellation of any assigned court dates must be made in writing to the Field Operations Division Commander, or

his/her designee, at least thirty days prior to the affected court date. The court will not cancel any date unless the Field Operations Division Commander or his/her designee makes notification to the court via email or memorandum.

IV. COURT APPEARANCE

- A. Unless subpoenaed by the Commonwealth Attorney's Office or the State Attorney General's Office, no department member shall testify in any criminal or civil trial as a witness in any case where the member has no official involvement with the case while the member is on duty or in uniform.
- B. Subpoenas received by deputies from non-government entities requesting expert testimony in any criminal or civil case, where the department member has no official involvement with the case, shall be forwarded up through the chain of command immediately. A review shall be conducted in conjunction with the County Attorney's Office to determine if such testimony would present a conflict of interest to the County, Sheriff's Office or deputy.
- C. Deputies on administrative leave or in administrative assignment, when their law enforcement authority has not been restricted, shall go to court as required. Deputies on administrative leave or in administrative assignments where their law enforcement authority has been restricted shall notify the Commonwealth Attorney's Office and attempt to continue their cases until such time as their law enforcement authority has been restored.
- D. Disclosure of state's evidence to defense counsel is a function of the Commonwealth Attorney's Office. It is not a law enforcement function or obligation.
- E. Deputies are not to agree to any plea agreements with defense counsel without the direction of the Commonwealth Attorney's Office.
- F. Deputies are not prohibited from speaking with defense counsel or investigators. However, it is a deputy's obligation to avoid comment or action which would interfere with the progress of legitimate prosecution of any case. If the impact of comments on the case is unknown, it is appropriate to make no comment or to seek the advice of the Commonwealth Attorney.
- G. Absent a court order, no defense counsel or investigator has the right to insist that any witness discuss any case with them. Deputies who choose to speak with the defense counsel or investigator have the right to impose any restrictions on the interview they choose. If such an interview is granted by the deputy, it is his or her obligation to fully disclose the content to the prosecuting attorney.

- H. Deputies may request a dismissal, "nolle prosequi," reduction, or merger of charges only after conferring with the Commonwealth Attorney's Office.
- I. Nothing in this policy restricts the decision of the Commonwealth Attorney's Office to initiate any motion before the Courts pertaining to the final disposition of any case under their control.
- J. A deputy who issues a Virginia Uniform Summons to a citizen is responsible for completing the summons accurately and completely. In the event that an error or omission is noted after the summons has been issued, the deputy must make an amendment to the summons before the judge in person, in the presence of the defendant, and prior to the commencement of the trial.

V. SCHEDULING

- A. By October of the preceding year, the Field Operations Division Commander or his/her designee, will compile General District Traffic Court, General District Criminal Court, and Juvenile Traffic Court schedules for all deputies in the Operations Bureau, to include the Field Operations Division, Operational Supports Division, and the Criminal Investigations Division. The schedules will include specific monthly dates and times for each deputy and in each respective court.
- B. Misdemeanor criminal charges, traffic offenses and juvenile traffic/criminal offenses shall be scheduled by deputies only on that deputy's assigned court date. Deputies are not to assign cases on non-assigned dates unless extraordinary circumstances are present.
- C. Deputies shall not schedule cases simultaneously in different courts (Traffic, Criminal, and Juvenile and Domestic Relations) on the same date and time. In the event a deputy's appearance is required in more than one court on the same date and time, the clerks of each court affected shall be notified. Deputies will appear in the court for which they have the greatest number of cases, most significant cases or higher court.
- D. Multiple charges to one defendant originating from the same encounter should be scheduled for one courtroom and tried simultaneously.
- E. When setting General District Traffic, Criminal or Juvenile and Domestic Relations court trial dates, deputies will allow at least forty (40) calendar days between the date of arrest and the trial date.

VI. TRAFFIC AND CRIMINAL COURT

- A. A copy of the court docket, which lists each deputy's case, collateral posted/fine paid, and open cases, will be available at each courtroom.
- B. Deputies may also find information pertaining to each of their own cases at www.courts.state.va.us

VII. JUVENILE COURT

- A. Deputies may suggest court dates when juveniles are arrested on charges other than traffic offenses.
- B. If the juvenile is released to a parent or guardian, a hearing date will be set by Juvenile Court Services when a petition is secured.
- C. If a juvenile is detained while court is in session, the juvenile will be transported to the court for an immediate hearing.
- D. Cases involving juveniles detained when court is not in session will be heard on the next date the court convenes.

VIII. GRAND JURY

- A. The Commonwealth Attorney's Office is responsible for preparing indictments to be presented to the Grand Jury. Generally, the necessary information for the indictment is provided to that office following the preliminary hearing.
- B. If the deputy of record from the preliminary hearing will not be presenting the case information to the Grand Jury, it is the responsibility of that deputy to notify the Commonwealth's Attorney's Office of the alternate deputy who will be presenting the case to the Grand Jury. This notification should be made at least five (5) working days prior to the date of the Grand Jury.
- C. Deputies scheduled to work the midnight shift on date of the Grand Jury should arrange with the Commonwealth's Attorney presenting the indictments that day to have their cases heard as quickly as possible.
- D. Direct Indictments to be presented to the Grand Jury must be screened by the Commonwealth Attorney's Office before the case will be placed on an upcoming Grand Jury docket.

IX. CONTINUANCES

- A. Under no circumstances will any deputy grant a continuance under their own authority.
1. Any requests for changes to the posted schedule must be made in writing to the Field Operations Division Commander, or his/her designee, at least 30 days prior to the respective court date. The courts will not change any date unless the Field Operations Division Commander, or his/her designee, makes the notification.
 2. When a deputy receives a subpoena for court and discovers a conflict in his/her schedule with the court date, it is his/her responsibility to contact the Commonwealth Attorney's Office on the next business day to resolve the issue. The deputy must also notify his/her immediate supervisor of the conflict and the agreed resolution to the scheduling conflict.
 3. When a continuance is needed for a case already scheduled by the court or deputy, the Commonwealth Attorney's Office must be contacted. Requests for continuances must be made by a motion initiated by the Commonwealth Attorney's Office. Deputies must complete a Praecipe Form (Attachment 2) for each case and submit the completed form to the Commonwealth Attorney's Office.
 4. If the deputy has a pre-scheduled conflict with any of his/her assigned court dates, the deputy must notify their immediate supervisor and the Field Operations Commander or his/her designee of the conflict and that he/she does not want to use that particular date. It is the deputy's responsibility to contact the Commonwealth Attorney's Office to ensure there has not been cases scheduled for that date. If cases are already scheduled on the date in question, it is the deputy's responsibility to request for a continuance from the Commonwealth Attorney's Office. If the continuance is not granted by the court, the deputy is responsible to appear in court.
 5. In cases of illness or emergency, deputies may have their scheduled cases continued. In the event a deputy cannot attend court due to an illness or emergency, the deputy is responsible for notifying the following individuals:
 - a. His/her shift supervisor(s)
 - b. The Clerk of the Court (for the court in which the deputy was scheduled to appear)

c. The Commonwealth's Attorney Office

6. It is the responsibility of the requesting deputy to verify a continuance has been granted. If verification has not been made prior to the court date in question, the deputy is expected to appear in court as directed.

X. CASE DISPOSITION

- A. In all criminal cases and any traffic cases involving driving under the influence (DUI) or reckless driving, the charging deputy will report to his/her immediate supervisor all incidents where the Commonwealth's Attorney refuses to prosecute and/or the court dismisses the case due to alleged mishandling by the deputy and/or the Sheriff's Office.
 1. Upon notification of non-prosecution and/or dismissal, the deputy's immediate supervisor shall review the facts of the case to determine if such disposition was the result of poor preparation or mishandling by the investigating deputy or by other department personnel.
 2. If the deputy's immediate supervisor determines that the deputy and/or the Sheriff's Office acted improperly or otherwise contributed to the ineffective prosecution, the supervisor shall take appropriate action to ensure that the situation does not re-occur. This action may involve counseling the deputy(s) deputies involved, recommending additional training, or other disciplinary action. The supervisor will document any and all actions taken.
 3. If the supervisor feels that the deputy(s) and the Sheriff's Office acted properly but the Commonwealth Attorney's Office mishandled the case or otherwise contributed to the non-prosecution or dismissal, he or she shall inform the appropriate Division Commander of his findings, in writing. The Division Commander shall then review the case and take action as deemed necessary.