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# GENERAL ORDER

FAIRFAX COUNTY POLICE DEPARTMENT

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SUBJECT: COURT PROCEDURES

NUMBER: 501.5

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CANCELS ORDER DATED: 10-1-06

DATE: 7-1-12

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## I. POLICY

Since court appearances are an integral part of the police function, it is necessary to clarify and standardize departmental procedures in this area. The image presented by officers appearing in court not only reflects upon the Department and the entire profession, but also affects the image of the court. In order to ensure a professional demeanor and improve efficiency, procedural guidelines shall be followed.

## II. GENERAL PROCEDURES

- A. When setting trial dates for adult criminal cases, officers will allow at least ten working days between the day of arrest and the trial date.

For all traffic offenses, officers shall allow at least four weeks between the day of arrest and the trial date. Officers who consistently do not provide at least a four week interval will have their cases automatically continued to a date chosen at the court's convenience. If this court date conflicts with an officer's schedule, a memorandum requesting a new date shall be endorsed by the officer's station or division commander and sent to the General District Court, Traffic Division, Docket Supervisor. The memorandum shall clearly state the reason for requesting a new date. A copy of all such memorandums shall be forwarded to the Patrol Bureau commander.

Procedures for Juvenile Court are outlined in Section VII. Requests for immediate trial are addressed in General Order 601.1, Misdemeanor Arrest/Summons Release, Section III.

- B. Subpoenas for employees which are delivered to police facilities shall be promptly delivered to the named employee. Precise documentation of that delivery shall be maintained.
- C. Officers appearing in court shall wear the uniform of the day or other appropriate business attire as described in SOP 04-002, Police Uniforms, Personal Equipment and Civilian Clothing, Section V.
- D. All officers shall sign in on the check-in sheet in the liaison office upon arrival in the courthouse and sign out, noting their time of departure prior to leaving.

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- E. Under no circumstances will officers park in the metered spaces in the County lot. Privately owned vehicles driven by officers attending court shall not be parked in violation of any County parking regulation or parked in "Police Vehicle Only" parking spaces.
- F. Officers 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 in all areas of the courthouse.
- G. First-line supervisors shall monitor, through personal observation, their non-supervisory subordinate's performance in court. Supervisors shall monitor their subordinates a minimum of once every 12 months, and more frequently if one-on-one training is required to improve performance. The monitoring shall be documented and retained by the reviewing supervisor.
- H. Subpoena for Witnesses
  - 1. In accordance with Fairfax County General District Traffic Court policy, witnesses to traffic cases will not be subpoenaed for the initial court date. If the defendant enters a plea of not guilty, the court will continue the case to the officers next court date for trial. The investigating officer will complete the Fairfax County General District Court "Request for Subpoena" to ensure the witnesses are notified of the trial date. This form shall be submitted to the Office of the Clerk of the court at least two weeks prior to trial date.

In those cases where the defendant files a continuance request prior to the first court date, the officer will receive a notice of continuance which indicates the defendant's intent to plead guilty or not guilty. Officers who receive a notice of continuance indicating the defendant intends to plead not guilty should proceed to subpoena any necessary witnesses for the new court date.
  - 2. In all other court cases, whenever witnesses are to appear, the officer shall request that the subpoena be issued. In order to ensure that the subpoenas are properly issued and served, officers will complete the Fairfax County General District Court "Request for Subpoena." This form shall be submitted to the Office of the Clerk of the Court at least two weeks prior to trial date.

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I. Interpreter Requirements

An officer who places charges, traffic or criminal, and determines that the defendant requires a foreign or sign language interpreter shall notify the Pretrial Services Office (703-246-3045) of the request two weeks prior to the court date. A certified sign language interpreter is required for defendants who are hearing impaired. Arrangements for a certified sign language interpreter can also be made through Department procedures. No pre-trial notice is required for Spanish language interpreters.

J. Criminal arrest records shall be obtained prior to appearing for a criminal trial.

K. Request for Copies of District Court Case Papers

Officers who need a certified copy or copies of previous court cases should forward a copy of the summons and the defendant's DMV transcript to the Court Liaison section. Court Liaison staff will obtain the certified copies and store them for the officers' use on their respective court date. The documents should be forwarded as soon as possible to ensure the certified copies are obtained before the court date.

L. The authority of an officer to carry a firearm into any court within Fairfax County may, from time to time, be restricted by court order. Court orders in effect shall be posted in a conspicuous manner in the court liaison offices, in the various district stations and in CIB.

III. PRELIMINARY HEARINGS

Preliminary hearing court dates are set during the court arraignment. Court arraignments are held on the next working day after the date of arrest for a felony charge. The arresting officer shall contact the Clerk of the Criminal Court on the arraignment date to determine the Preliminary Hearing date. The preliminary hearing date shall be relayed to the complainant stated on the warrant, if the complainant is other than the arresting officer.

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IV. CONTINUANCES

- A. Under no circumstances will police officers grant continuances under their own authority. Any person requesting a continuance shall be referred to the Clerk of the Court.
- B. In cases of illness or emergency, officers may have their scheduled cases continued. In the event an officer cannot attend court because of the above reasons, the officer shall be responsible for notifying the following:
  - 1. Court Liaison.
  - 2. Clerk of the Court.
  - 3. Day work supervisor at officer's station or division.
  - 4. Immediate supervisor on next work shift after continuance.
- C. Officer-Requested Continuances – General District Traffic and Criminal Court.

The following documents shall be completed and forwarded to the appropriate office of the Clerk of the Court.

- 1. Requests made 30 or more days in advance of court date.
  - a. One Request for Court Continuance (PD Form 198) shall be completed for the affected court date.
  - b. A Notice of Court Continuance (PD Form 16) addressed to each defendant shall be completed.
  - c. Copies of all witness subpoenas.

Upon approval of the continuance request, the Clerk shall mail the completed Notice of Court Continuance form to the defendant(s), notifying them of the new court date. The Clerk will also complete the lower yellow portion of the Request for Court Continuance form and return in to the initiating officer.

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2. Requests made less than 30 days in advance of court date.
  - a. The officer will contact the appropriate docket supervisor as soon as possible to verbally request a continuance.
    - Traffic Docket Supervisor – (703)246-4995
    - Criminal Docket Supervisor – (703)246-3305

If the continuance request is denied, the officer shall notify his immediate supervisor.

- b. If the continuance request is granted by the Clerk, the requesting officer shall:
  - Submit all the documents to the appropriate Clerk of the Court required for requests made 30 or more days in advance of court date, in accordance with paragraph C, subsection 1 of this General Order.
  - Notify defendants and witnesses of the continuance. Officers shall document all notifications and attempts to notify (e.g., via telephone) if unsuccessful.

D. Officer-Requested Continuances – Juvenile and Domestic Relations Traffic and Criminal Court.

1. Traffic – Requests made five or more days in advance of court date.
  - a. Officers shall contact the Clerk’s Office to request a continuance. Continuances will automatically be granted in these cases.
    - Requesting officer shall be responsible for notifying all parties of the continuance.
2. All criminal cases and traffic cases when request is made less than five days in advance of court date.

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- a. Officers shall contact the appropriate Clerk of the Court to request a continuance and complete the Motion for Continuance Form at the Clerk's Office. This form must be completed by 1200 hours the day before the officer wishes to have the motion heard.
- b. An Assistant Commonwealth's Attorney shall present the motion to the judge at 1500 hours the following day.
  - Requesting officer shall be responsible for contacting the appropriate Clerk of the Court to determine if the Motion for Continuance was granted.
  - If the motion is granted, the requesting officer shall be responsible for notifying all parties of the continuance.

E. Officer-Requested Continuances – Circuit Court

Officers shall contact a Commonwealth's Attorney to initiate a continuance request.

V. ADULT TRAFFIC COURT

- A. Officers will be provided a copy of the court docket listing their cases, indicating collateral posted and open cases. Officers shall closely examine their docket sheets prior to 0915 hours on the trial date. If a defendant's name has been omitted from the docket, the clerk shall be immediately informed and provided with a photocopy of the officer's copy of the summons.
- B. Officers who have Driving While Intoxicated cases, or other cases where jail time may be warranted, shall meet with the Commonwealth Attorney at 0830 hours on the day of the court date. Officers shall be in the Traffic Courtroom at 0930 hours, prepared to testify. Otherwise, they shall advise the Court Liaison Officer that they will be late.
- C. Officers using vehicle calibration sheets shall return these documents to the Court Liaison file before leaving court. Radar accuracy certificates shall be returned to district station files as soon as practical after leaving court.

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VI. CRIMINAL COURT

- A. A master copy of the Criminal Court Docket will be maintained at the Liaison Office.
- B. Officers shall be in the Criminal Courtroom, prepared to testify, at 0930 hours. Otherwise, they shall advise the Court Liaison that they will be late.

VII. JUVENILE COURT

- A. Officers will not set court dates when juveniles are arrested except those traffic and alcohol offenses for which they are released on a summons. If the juvenile is released to a parent or guardian, a hearing date will be set by the Juvenile Court when a petition is secured. If a juvenile is detained while court is in session, the juvenile shall be transported to the court for an immediate hearing. Cases involving juveniles detained when court is not in session will be heard on the next day that court convenes.
- B. The Juvenile Court Clerk will periodically amend the times in which misdemeanor, felony, traffic, domestic, and sex offense cases are to be heard. Therefore, officers and all involved parties will be required to appear at least one hour prior to the scheduled court time (except traffic cases) in order to assist the assigned Assistant Commonwealth's Attorney in case preparation.

VIII. GRAND JURY

The Office of the Commonwealth's Attorney is responsible for preparing indictments to be presented to the Grand Jury. Generally, the necessary information is provided to that office following the preliminary hearing.

- A. If the officer of record for the preliminary hearing will not be presenting the case information to the Grand Jury, it is the responsibility of that officer to notify the Administrative Assistant to the Commonwealth's Attorney of the alternate officer who will be taking the case to the Grand Jury. This notification shall be made at least five working days prior to the scheduled Grand Jury date.

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- B. If extenuating circumstances prevent the officer of record from appearing, and less than five working days remain before the scheduled date, the officer shall notify an immediate supervisor and the Court Liaison Unit. The officer's supervisor shall then notify the Office of the Commonwealth's Attorney of the alternate selection.
  
- C. Officers scheduled to work the midnight shift on Grand Jury day can arrange for their cases to be heard as early as possible in the morning session. Officers scheduled to work the evening shift can arrange for their cases to be heard in the afternoon session. Both of these requests may be granted by contacting the Administrative Assistant to the Commonwealth's Attorney at least five working days prior to the scheduled date.

IX. ACCREDITATION STANDARDS REFERENCE

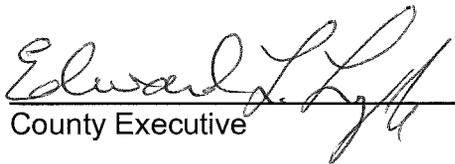
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This General Order becomes effective July 1, 2012 and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

APPROVED BY:

  
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Chief of Police

  
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County Executive