

**Prince William County
General District Court
9311 Lee Avenue
Manassas, Virginia 20110
(703) 792-6141**

**TIMESAVER
GUIDELINES**

7/15/17

Acknowledgement

*The Prince William County Bar Association
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Judges of the General District Court
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TABLE OF CONTENTS

SECTION I -- CIVIL PRACTICE GUIDELINES

A.	GENERAL DISTRICT COURT CIVIL DOCKET OVERVIEW	1
1.	The Return Docket	1
2.	The Trial Docket	1
3.	The Unlawful Detainer Docket	1
4.	The Small Claims Docket	2
B.	FILING CIVIL SUITS AND OTHER CIVIL PLEADINGS	2
1.	Forms Available in the Clerk's Office	2
2.	Signatures, Service Copies and Proof of Filing	2
3.	Filing and Service Fees	3
4.	Purchased Debt Cases	3
5.	Self Help	3
C.	SERVICE AND ORDERS OF PUBLICATION	4
1.	In-County Service	4
2.	Out-of-County Service	4
3.	Private Process Service	4
4.	Checking Service	4
5.	Alias Summons	4
D.	REVIEWING CIVIL GENERAL DISTRICT COURT FILES	4
1.	Review of Case Files	4
2.	Location	5
3.	Removal/Copies	5
4.	Copy/Certification Fees	5
E.	CONTINUANCE GUIDELINES FOR CIVIL MATTERS	5
1.	Cases on the Return Docket	5
2.	Cases on the Trial Docket	6
3.	Cases on the Unlawful Detainer Docket	7
F.	INCIDENTS OF CIVIL TRIAL	7
1.	Subpoenas	7
2.	Court Reporters	8
3.	Interpreters/Translators	8
4.	Available Equipment	8
5.	Courtroom Etiquette	9
G.	POST-JUDGMENT PROCEEDINGS	9
1.	Debtor's Interrogatories	9
2.	Garnishments	10
3.	Abstracts of Judgment	10
4.	Release of Judgment	10

H.	Preliminary Protective Orders	10
I.	Overflow Courtroom	10

SECTION II -- CRIMINAL PRACTICE GUIDELINES

A.	GENERAL DISTRICT COURT TRAFFIC/CRIMINAL DOCKET OVERVIEW	11
	1. The 8:30 a.m. Docket	11
	2. The 9:30 a.m. in-jail arraignment Docket.....	11
	3. The 9:00 & 10:30 a.m. Dockets	12
	4. The Preliminary Hearing Docket.....	12
	5. Blood Draw DUI Dockets	12
	6. Divert Docket	12
B.	CASE PROCESSING TIME STANDARDS AND CONTINUANCES	12
	1. Case Processing Time Standards	12
	2. Continuance Guidelines	13
C.	MOTIONS	15
	1. Motions for Discovery	16
	2. Appointment of Counsel to Indigent Defendants.....	16
	3. Other Motions	16
D.	INCIDENTS OF CRIMINAL TRIAL.....	16
	1. Subpoenas	16
	2. Available Equipment	17
E.	PAYMENT OF FINES AND COSTS	18
F.	GUILTY PLEAS	18
	1. Preparation of Referral Orders	18
	2. Plea Forms	
G.	RETURN DOCKET FOR ALL JUDGES	18

SECTION I ~ CIVIL PRACTICE GUIDELINES

The following is an overview of the General District Court, Civil Division, together with tips and suggestions for working with the Court as efficiently as possible. The Civil Clerk's Office is located in Room 220, which is on the Second Floor of the Judicial Center. Its hours of operation are Monday through Friday, 8:00 a.m. to 4:00 p.m. The office telephone number is 703-792-6149. The cooperation of the staff of the Clerk's Office can be an invaluable aid to any practicing attorney. Treating the staff with respect and courtesy is the cornerstone of establishing a mutually advantageous relationship and a hallmark of professionalism. You will find the staff of the Clerk's Office eager to serve you.

A. GENERAL DISTRICT COURT CIVIL DOCKET OVERVIEW.

The General District Court hears civil matters on Tuesdays, on the 1st, 3rd & 5th Wednesdays, and on Thursdays at 11:00 a.m. and 1:30 p.m. Unlawful Detainer matters are heard on Fridays at 11:00 a.m. (pro se parties) and at 1:30 p.m. (parties represented by counsel.) The 2nd and 4th Wednesdays are reserved for Small Claims Court which cases are called at 11:00 a.m. for returns and at 1:30 p.m. for trials. The civil dockets are generally divided into the following categories:

1. The Return Docket:

First returns of all civil cases (other than unlawful detainers) are scheduled in Courtroom #1 on the Court's 11:00 a.m. docket on Tuesdays, on the 1st, 3rd & 5th Wednesdays, and on Thursdays. This includes warrants in debt and any motions anticipated to take no more than (5) minutes to hear. {Effective February 1, 2013, any post-judgment matter filed in the General District Court shall be scheduled for a return date on any available Monday thereafter at 11:00 a.m. Post Judgment matters shall include garnishments, interrogatories, attachments, rehearing requests, as well as any other issue requiring court review following the entry of judgment. }

2. The Trial Docket:

Trials of civil cases (other than unlawful detainers) and any contested motions that will take longer than five (5) minutes to hear are placed on the Court's 1:30 p.m. docket on Tuesdays, on the 1st, 3rd or 5th Wednesdays, and on Thursdays in Courtroom #1.

3. The Unlawful Detainer Docket:

Unlawful detainer cases without counsel are scheduled at 11:00 a.m. on Fridays. All unlawful detainer matters with counsel are scheduled at 1:30 p.m. on Fridays. In most cases in which the parties are unrepresented by counsel and the issues are contested the court will refer the case to trained mediators. If mediation is unsuccessful those cases

may be rescheduled for trial the same Friday at 1:30 p.m. or for the next available Friday at 1:30 p.m.

Prosecution of unlawful detainers upon affidavit, as authorized by the Virginia Code, will require proof in Court of the following:

- a. Original Lease with late charge and attorney fee provisions highlighted;
- b. 5-day pay or quit notice;
- c. Any necessary Reservation of Rights Notice
- d. A statement of account
- e. *Ex Parte* Proof. Judgment for unliquidated damages to property cannot be granted without *ex parte* evidence.

4. The Small Claims Docket

- a. Small claims cases are heard on the 2nd and 4th Wednesdays at 11:00 a.m. with contested cases heard at 1:30 p.m. Contested cases on the 11:00 a.m. docket may be referred to trained mediators. If at all possible, cases not successfully resolved by mediation are tried at the 1:30 p.m. docket that same day.
- b. Counsel wishing to remove a case from the Small Claims Court should appear at the scheduled 11:00 a.m. docket. Any case removed will be set for trial on the earliest possible date available on the Trial Docket (section 2). Counsel should file a praecipe with the Court as soon as possible and should give notice to the other party that the case will need to be removed to the General District Court docket for trial in order to minimize inconvenience to witnesses. The praecipe will need to include counsel's full name, mailing address, and phone number.

5. Transurban Hot Lanes Docket

- a. These dockets are heard every Thursday at 2:00 p.m. in Courtroom 4

B. FILING CIVIL SUITS AND OTHER CIVIL PLEADINGS.

1. Forms Available in the Clerk's Office:

Various standard forms, such as warrants in debt, summons for unlawful detainer, summons for debtor's interrogatories, garnishment forms, affidavits for service on the Secretary of the Commonwealth, the State Corporation Commission, and the Va. DMV are available in the Clerk's office. Forms are also available online through the General District Court's web site (<http://www.courts.state.va.us/forms/district/home.html>).

2. Signatures, Service Copies and Proof of Filing:

Please verify that all pleadings have been signed by counsel of record and contain the appropriate addresses of all parties. If pleadings require service, please provide the correct number of service copies, together with instructions for forwarding service copies

to the appropriate sheriff. A check or checks sufficient to pay all filing and service fees will need to be provided at the same time. Generally, for filings requiring service, it is necessary to provide the original plus one copy for each service.

3. Filing and Service Fees:

Please note that checks for all filing fees should be made payable to the *Clerk of the General District Court*. Filing fees are separate and distinct from applicable service fees to the Sheriff, but the Sheriff's service fee may be included in the check made payable to the Clerk of the General District Court. Please verify that all checks are signed. The Clerk's Office will accept personal checks from *pro se* litigants, cash, money orders, or checks drawn on an attorney's account.

4. Purchased Debt Cases

The defendant should be able to tell from the style of the case, the nature of the account on which he/she has been sued. While it is not necessary to provide the entire chain of title to the account, the style of the case must contain the names of both the present creditor and the original creditor. If the issue of ownership of the account is raised in the course of the proceeding, by pleading, or otherwise, the plaintiff must be prepared to prove its chain of title, and to present, if necessary, all of the assignments which resulted in the ownership of the account, by the ultimate plaintiff in the case.

The plaintiff's counsel, on the return date, shall be in possession of sufficient documentation of the claim, to enable the defendant to recognize the nature of the obligation, and the manner in which the balance claimed was determined.

At a minimum, the plaintiff should be prepared to present an invoice from the original creditor, on the creditor's billing form, or a some other documentation by any creditor in the chain showing actual usage, in the case of a credit card account. If the defendant claims not to be the correct debtor, or not to have any account or dealings with the original creditor, the plaintiff must be able to produce documentation showing that the defendant signed a contract, used the credit card in question, or in some other manner was the party that contracted with the original credit grantor.

Pleadings must provide the basis for the claim (contract, card usage, signed by the defendant, note, or contract), a breakdown of debits and credits, showing how the balance was determined, and appropriate documentation to support the claim. If charges from the original creditor include interest at a rate in excess of the judgment rate, fees, such as over limit charges, or other charges that do not reflect purchase or cash advances, the creditor must document the rules and regulations to which the debtor agreed to be bound, either by written agreement, or by card or account usage. If documentation is not sufficient, judgment will not be granted, even if the defendant fails to respond to the Bill of Particulars.

5. Self Help

The Supreme Court of Virginia has a self-help site at <http://selfhelp.vacourts.gov/>

C. SERVICE AND ORDERS OF PUBLICATION.

Please note: the following is a general overview of the Clerk's Office procedures relating to the service of process. Service requirements are statutorily mandated and attorneys should satisfy themselves that all service requirements applicable to any particular case have been met.

1. **In-County Service:**

In general, original process to be served by the Sheriff of Prince William County will be forwarded to the Sheriff's Department within 48-72 hours following the filing of the pleadings.

2. **Out-of-County Service:**

The Clerk's Office processes any pleadings that must be served by the Sheriff of another county or city and forwards the pleadings to the Sheriff of the indicated jurisdiction. Counsel, or any *pro se* party, is responsible for identifying on the pleading the jurisdiction in which service is to be performed.

3. **Private Process Service:**

When filing pleadings to be served by private process, counsel, or any *pro se* party, should advise the Clerk's Office if private process service is desired. The Clerk's Office will notify counsel when the process is ready for pick-up.

4. **Checking Service:**

The status of service returns can be determined by checking the files in the Clerk's Office during regular business hours. Counsel, or any *pro se* party, are reminded that files are not available for review after 10:15 a.m. on the morning such a file is on any of the Court's dockets for that day.

5. **Alias Summons:**

Please remember that when requesting the issuance of an alias summons, the Sheriff's fee, as well as the appropriate number of copies of the pleading to be served, must accompany a copy of the alias summons request.

D. REVIEWING CIVIL GENERAL DISTRICT COURT FILES.

1. **Review of Case Files:**

Counsel, or any *pro se* party, are encouraged to review their files for service information either the day before the scheduled court date or before 10:15 a.m. on the morning of Court. It is essential to the orderly progression of the docket that counsel, or any *pro se* party, (1) know the status of service of process of each case on his or her docket and (2) be prepared to request an action that is consistent with the service status.

2. Location:

All active civil General District Court files available for review are located in the Clerk's Office in Room 220. In addition to having the style of the case and the case number when asking for a file, Counsel, or any *pro se* party, should also know on what date the matter is scheduled to be in Court. Counsel, or any *pro se* party, should note that the files of cases set for Court on any particular day will not be available for review after 10:15 a.m. on the scheduled court date.

3. Removal/Copies:

Files *may not be removed* from the Clerk's Office by attorneys or by any party for any reason. All copies must be made by the Clerk's staff in the Clerk's Office. The Clerk handles the forwarding of all files to Chambers.

4. Copy/Certification Fees:

No counsel, or any *pro se* party, shall remove *any* document from the Court file. Counsel, or any *pro se* party, who want copies should place paper clips on the relevant pages and return the entire file to a clerk. A fee of \$1.00 for the first and second copies and fifty cents (50¢) per each page thereafter is charged for all copies made in the Clerk's Office.

E. CONTINUANCE GUIDELINES FOR CIVIL MATTERS.

In accordance with Section 16.1-59 of the 1950 Code of Virginia, as amended, and Rule 7A:14 of the Rules of the Supreme Court of Virginia and in keeping with the spirit of the recommendations of the Judicial Council of Virginia as to the "Adoption and Implementation of Case Processing Time Standards," the General District Court of Prince William County adheres to the following guidelines:

1. Cases on the Return Docket:

a. Uncontested Cases:

If the warrant in debt is uncontested on the Return Date, then the Court may enter judgment on the affidavit if the damages are liquidated or upon the taking of *ex parte* proof if unliquidated damages have been claimed.

PLEASE NOTE THAT CONTINUANCES WILL ONLY BE ALLOWED FOR GOOD CAUSE SHOWN AND SHOULD BE SCHEDULED WITHIN SIXTY (60) DAYS FROM THE ORIGINAL RETURN DATE.

b. Contested Cases:

If the defendant appears on the first return date and contests the case and both parties are ready for trial, the case *may* be heard on that day at the discretion

of the Court, either at the end of the 11:00 a.m. docket or at the end of the 1:30 p.m. docket.

If the defendant appears on the first return date and contests the case and either one party or the other is unable to proceed to trial that day, or if, in the court's discretion, a separate date is needed for trial, the case will be set for trial on a Tuesday, on the 1st, 3rd or 5th Wednesday or on a Thursday at the 1:30 p.m. docket.

PLEASE NOTE THAT TRIAL DATES WILL BE SCHEDULED WITHIN SIXTY (60) DAYS OF THE RETURN DATE, ABSENT EXTRAORDINARY CIRCUMSTANCES.

2. Cases on the Trial Docket:

All parties shall report to Court at 1:30 p.m. on the scheduled trial date. Unless otherwise designated all parties shall report to courtroom #1 where the trial docket will be called. All parties and witnesses shall appear on time. Cases will be called and some cases may be transferred from courtroom #1 to one of the other courtrooms for trial.

a. How a Continuance May Be Obtained by Agreement:

There are three methods by which a trial may be continued by consent:

(1) One or both of the attorneys or parties may appear in open Court to make the Motion, and a date will be scheduled with leave of Court; or

(2) Either attorney or party may file a written Praecipe in the Clerk's Office. The Praecipe must be filed in the Clerk's Office no less than five business days prior to the scheduled trial date. The Praecipe shall state the new court date which date shall have been obtained from the clerk and the Praecipe shall state that the continuance is agreed among all parties. The Praecipe shall have been mailed to all parties; or

(3) The parties may submit an Agreed Order to the Court at least three days prior to the originally scheduled trial date. The Order must state the new trial date which date has been obtained from the clerk.

b. Contested Motions for Continuance:

In the event one party objects to the Motion to Continue, then the moving party must appear in Court on or before the trial date for a hearing on the Motion to Continue. Filing, service, and hearing requirements are governed by the Rules of the Supreme Court of Virginia.

3. Cases on the Unlawful Detainer Docket:

If a defendant appears on the first return date and disputes the plaintiff's claim, the court will determine whether the case should proceed to trial on that date, or be set on another date for trial. Unlawful Detainer actions have priority by statute, so the following guidelines are generally adhered to:

- a. If the plaintiff has checked no block regarding the hearing date, or has checked the block indicating the case will be heard on the return date, then the case will generally be heard on that date unless the Plaintiff agrees to a continuance. If the plaintiff has checked the block indicating another date will be set for trial, then the case will generally be continued for trial unless both parties agree that the case be heard on the return date.
- b. Absent consent, continuances for trial will generally be brief—one or two weeks. Trials are set for the 1:30 p.m. Friday docket.
- c. Continuances of cases under the Landlord-Tenant Act, where the issue is non-payment of rent, may be conditioned on the Defendant's posting of a bond.
- d. Information on Tenant's Assertions may be obtained from the clerk's office or the website for the Supreme Court of Virginia.

F. INCIDENTS OF CIVIL TRIAL.

1. Subpoenas:

Subpoenas must be prepared by counsel or by *pro se* litigants. The Clerks will **not** prepare subpoenas, but will send blank forms to a party in response to a letter requesting subpoenas.

a. How Obtained:

Witness subpoenas may be made on forms available in the Clerk's Office or online at www.courts.state.va.us. Similarly, the Clerk's Office has forms available for subpoenas *duces tecum*. A specific list of documents being requested must be provided.

b. Attorney-Issued Subpoenas:

Many civil witness and document subpoenas may also be attorney-issued in compliance with the provisions of the Virginia Code and the Virginia Rules. An attorney-issued summons must be on a form approved by the Virginia Supreme Court, which forms are available in the Clerk's Office. A copy of the summons and, if the summons is to be served by the Sheriff, payment for all service fees, must be mailed or delivered to the Clerk's Office on the date of issuance by the attorney, together with a certificate of service. Attorney-issued subpoenas to be transmitted by Sheriff's Service must be accompanied by a transmittal sheet containing all pertinent information. Counsel should also

consult the Virginia Code and applicable rules for specific information relating to attorney-issued subpoenas.

c. Timing:

Attorneys are encouraged to file witness subpoenas as far in advance of the hearing date as possible. While the Clerk's Office makes every effort to process requests as expeditiously as possible, as a practical matter, witnesses must be given reasonable notice. This requires advance planning on the part of the requesting party. As a general rule, counsel requesting witness subpoenas must allow at least fourteen (14) days for processing and service within the jurisdiction, in addition to the time necessary to provide the recipient with proper and timely notice. Similarly, document subpoenas should be filed far enough in advance to allow reasonable time for processing and service, as well as a sufficient time period for compliance in accordance with the Virginia Rules.

Please take into consideration that the paperwork for subpoenas to be served outside of Prince William County must be forwarded directly to the appropriate jurisdiction in which the service is to be accomplished. Each party making such a request should be familiar with the procedures of the Sheriff's Department in the foreign jurisdiction. As such, service outside of Prince William County almost certainly takes more time than service within the County. Counsel should plan accordingly.

d. Fees:

The Sheriff's fee for each service should be included with the filing. If the subpoena is to be served by private process, please note this with the subpoena request at the time it is filed.

2. Court Reporters:

The Court does not provide a court reporter for any civil matter. The litigant who chooses to hire a court reporter must bear the cost thereof absent an agreement to the contrary.

3. Interpreters/Translators:

Litigants must make arrangements for any interpreters or translators they need. For trials, a court certified interpreter will be required. The Clerk will make arrangements for a court certified interpreter if a request is made at least 7 days before trial.

4. Available Equipment:

Each General District Courtroom has a dry marker board. Consult the bailiff for availability of markers. Counsel must provide any other items. A television monitor and media player are available upon request.

5. Courtroom Etiquette:

Parties are expected to be in Courtroom #1 ready to proceed by 1:30 p.m. on the trial date. The trial docket begins at 1:30 p.m., or as soon thereafter as is possible, with the Judge calling the docket to obtain time estimates from counsel. Time estimates are used to prioritize cases. The Judge in Courtroom #1 may transfer matters to other courtrooms for hearing, depending upon the availability of other judges. Accordingly, after your case has been called for a time estimate, please remain in or close to Courtroom #1 even when other cases are being heard as other courtrooms may become available at any time.

All persons are expected to stand when addressing the Court.

G. POST JUDGMENT PROCEEDINGS.

{Effective February 1, 2013, any post-judgment matters filed in the General District Court shall be scheduled for a return date on any available Monday thereafter at 11:00 a.m. Post Judgment matters shall include garnishments, interrogatories, attachments, rehearing requests, as well as any other issue requiring court review following the entry of judgment.}

1. Debtor's Interrogatories:

A judgment creditor's right to conduct debtor's interrogatories is governed by the Virginia Code and parties are advised to review the statute to determine authority to proceed.

Returns on debtor's interrogatories are called on the 11:00 a.m. Monday Return Docket. After the case is called, the Court will instruct the debtor to wait for the judgment creditor or his counsel in the hallway. Interrogatories are conducted in the General District Court hallway unless the circumstances require the parties to proceed in open court. The Court will swear the debtor on counsel's request.

Counsel **IS** expected to know the status of service when the debtor's interrogatory summons is called in Court so that counsel may request a disposition that is within the power of the Court to grant. In the event that a defendant who has been served with a summons to answer interrogatories fails to appear, the Court, upon request, will grant the plaintiff one continuance for the issuance of a "Show Cause Summons" or "Capias" against the defendant. The plaintiff must prepare the Show Cause Summons or Capias and file it with sufficient time to allow for processing and service before the new court date. If the plaintiff fails to issue the Show Cause Summons or Capias in time to allow for processing and service before the new court date and/or the defendant fails to appear on that date, the Court, upon request, will grant the plaintiff *ONE (1) CONTINUANCE ONLY* for an Alias Show Cause Summons or Capias.

THE CLERK'S OFFICE STRONGLY RECOMMENDS THAT PLAINTIFFS ALLOW SIX (6) to EIGHT (8) WEEKS BETWEEN THE FILING DATE OF A SHOW CAUSE SUMMONS OR CAPIAS AND THE RETURN DATE

TO ALLOW TIME FOR THE PROCESSING AND SERVICE OF THE PLEADING.

2. Garnishments:

A judgment creditor's right to conduct wage, bank, and any other garnishment action is governed by the Virginia Code and counsel, and *pro se* parties, are urged to review the applicable Virginia Code to determine a client's authority to proceed. Returns on garnishments are called on the 11:00 a.m. Monday Return Docket.

Counsel is expected to know status of service when the garnishment return is called in Court so that counsel requests a disposition that it is within the power of the Court to grant. In the event that the Garnishee is served but fails to file an Answer, the Court, upon request, will grant the plaintiff a continuance for good cause to obtain an Answer. If the Garnishee fails to file an Answer by the continuance date, the plaintiff must either proceed with a Show Cause Summons against the Garnishee or dismiss the Garnishment. Prior to obtaining a judgment against the Garnishee for failing to file an Answer, the Plaintiff must provide *ex parte* evidence of the Garnishee's obligation to the judgment debtor, as required by statute.

3. Abstracts of Judgment:

Counsel should allow ten (10) days after the entry of judgment before filing a written request for an Abstract of Judgment. The written request must be accompanied by a self-addressed, stamped envelope for the transmission of the Abstract to counsel.

Please be advised that the successful plaintiff or counter-plaintiff is responsible for docketing any General District Court judgment among the records of the Circuit Court of Prince William County or any other jurisdiction. Judgments entered in the General District Court are not automatically docketed in the Circuit Court or elsewhere.

4. Release of Judgment:

The Code requires plaintiffs to release a judgment in writing. It is not enough to advise the Court verbally that the judgment is paid. It must be marked released/satisfied within thirty (30) days of payment. A praecipe, or form DC-458, is available on line at www.courts.state.va.us will suffice.

H. Preliminary Protective Orders

Applications for Preliminary Protective Orders will not be accepted by the clerk's office unless the application is accompanied by an affidavit in support of the request for protection. If an attorney notes an appearance, the attorney must file a praecipe including a time estimate for the hearing.

I. Overflow Courtroom

Courtroom 2 is a designated overflow courtroom until further notice. Matters that cannot be efficiently heard in Courtroom 1 may be moved to Courtroom 2 if the

Courtroom 2 assigned Judge is available. Similarly, special matters or motions may be set by agreement at a time certain in Courtroom 2.

SECTION II ~ TRAFFIC AND CRIMINAL PRACTICE GUIDELINES

The following is a general overview of the General District Court, Traffic and Criminal Division, together with tips and suggestions for working with the Court as efficiently as possible. The Clerk's Office for the Traffic and Criminal Division is located in Room 230, which is on the Second Floor of the Courthouse. Its hours of operation are Monday through Friday, 8:00 a.m. to 4:00 p.m. The Office telephone number is 703-792-6141. The cooperation of the staff of the Clerk's Office can be an invaluable aid to any practicing attorney. Treating the staff with respect and courtesy is the cornerstone of establishing a mutually advantageous relationship and a hallmark of professionalism. The Clerk's Office is eager to serve you.

A. GENERAL DISTRICT COURT TRAFFIC/CRIMINAL DOCKET OVERVIEW.

1. The 8:30 a.m. Docket:

The Court conducts the 8:30 a.m. docket in Courtrooms #1 for out-of-jail defendants and any brief pre-trial motions

The 8:30 a.m. docket is both the first of the Court's dockets for each day, as well as often, though not always, the first time a defendant appears in court on a particular charge. On its 8:30 a.m. docket, the Court hears requests for appointment of counsel, continuance requests and discovery motions. Motions less than 15 minutes will be heard at the end of the 8:30 am. docket or will be set over to the end of the 9:30 a.m. in-jail (Courtroom 2) arraignment Docket. Motions greater than 15 minutes will be set over to the Courtroom 2 Overflow docket. Counsel may also set time certain motions on the Overflow Docket anytime between 10:30 and 4:00.

Additionally, in all felony cases and class one and two misdemeanors, the defendant will be required to appear in court at 8:30 a.m. to be advised of his or her right to counsel (this is universally, if imprecisely, referred to as an "arraignment"). If the defendant has retained counsel prior to the first appearance (or arraignment), counsel may enter an appearance, either in person, or by praecipe, at or prior to the first appearance. In that case, the defendant is not required to appear at the first appearance.

2. The 9:30 a.m. in-jail arraignment Docket

Defendants who have been arrested, and have not posted bail, are arraigned via video conferencing in Courtroom 2. All bond and similar motions of in-jail defendants are heard at 9:30 a.m. via video conferencing. Carryovers from the 8:30 docket will be heard after the 9:30 in-jail arraignment Docket, after all in-jail arraignments have concluded. If an attorney is appointed for an in-jail defendant during the 9:30 a.m. in-jail arraignment Docket the attorney will be notified by email and by telephone that same day of his or her appointment. Court appointed counsel are expected to see the defendant in

the Adult Detention Center within 48 hours of appointment and to file a bond motion if appropriate.

3. The 9:00 & 10:30 a.m. Dockets:

On Monday, General District Courtrooms 3, 4 and 5 have traffic and misdemeanor criminal dockets at 9:00 a.m. and 10:30 a.m. Tuesday through Friday, however, Courtroom 1 conducts the civil docket and Courtrooms 3, 4 and 5 have traffic and misdemeanor criminal matters. Courtroom 2 is the Overflow Court for any matters referred from the other courtrooms or for specially set matters or walk-in matters.

The 9:00 a.m. docket is posted on Electronic Boards near the stairway on the second floor. Cases are listed alphabetically according to Defendant's name.

Except for accident cases involving citizen witnesses and unless a continuance is granted, traffic and misdemeanor criminal matters generally proceed to trial on the first day they are in court on a 9:00 a.m. or 10:30 a.m. docket. See section B 2(d) below re: accident cases involving citizen witnesses.

4. The Preliminary Hearing Docket:

The Court conducts preliminary hearings beginning at 11:30 a.m., or as soon thereafter as the matters may be heard. Preliminary hearings are held in Courtrooms 2, 3, 4 and 5 on Monday through Friday. See section B 2(d) below for felony cases involving accidents with citizen witnesses. The Court also schedules some traffic and misdemeanor criminal cases for 11:30 a.m., generally those associated with felony cases.

5. Blood Draw DUI Dockets

Driving under the Influence charges which involve blood analyses are set for trial at 1:30 p.m. on the same days as Small Claims Trials in the Civil Division (2nd and 4th Wednesdays of each month). Each Courtroom maintains a list of available Blood Draw Trial dates. Only those cases for which a Blood Draw Certificate Analysis has been filed will be set on the 1:30 trial docket. Cases set on this trial docket must be ready promptly for trial or plea on the assigned trial date.

6. Divert Docket

Cases that have been diverted from the regular docket based upon the need for mental health services prior to proceeding with adjudication are placed upon a special docket, normally heard on the last Monday of each month at 1:30.

B. CASE PROCESSING TIME STANDARDS AND CONTINUANCES.

1. Case Processing Time Standards:

In accordance with Section 16.1-69.35 of the Code of Virginia and Rule 7A:14 of the Rules of the Supreme Court of Virginia and in keeping with the spirit of the recommendations of the Judicial Council of Virginia as to the “Adoption and Implementation of Case Processing Time Standards,” the General District Court of Prince William County will adhere to the Standards, as set forth below.

a. Misdemeanors/Infractions:

Ninety percent (90 %) of the Court’s misdemeanors and traffic infractions should be adjudicated within sixty (60) days from the date of arrest or citation and One Hundred percent (100%) within One hundred and twenty (120) days.

b. Felonies:

Preliminary Hearings should be concluded within sixty (60) days from the date of arrest.

2. Continuance Guidelines:

Necessary continuances will be approved so long as appropriate steps are taken to adequately notify all interested parties so as to minimize inconvenience.

a. Preliminary hearings, Class 1 Misdemeanors, and Class 2 Misdemeanors Without Citizen Witnesses (only witness is law enforcement officer):

(1) Defendant must be represented by counsel or have acknowledged his right to counsel and waived that right by execution of a waiver of rights form or by his appearance at trial without counsel. Defendant can execute the waiver form at his or her assigned initial appearance at 8:30 a.m. in Courtroom #1 or on the trial date if no initial appearance has been assigned.

(2) FIRST CONTINUANCE MAY BE OBTAINED upon good cause shown (by defense counsel or *pro se* defendant who has executed an acknowledgement of his or her right to counsel), upon filing and entry of AGREED ORDER (see Section 2 e below), upon motion at trial by counsel, or upon appearance of the party or counsel at 8:30 a.m. any day after appropriate notice to the opposing party. (Notice to the opposing party may be waived for *pro se* parties if dictated by the ends of justice; the Commonwealth’s Attorney’s Office will generally be available daily at 8:30 a.m. in Courtroom #1).

(3) Subsequent continuances may be obtained only by leave of court upon good cause shown. Agreed orders may be submitted for court’s consideration (See Section 2 e below), or motion may be made at 8:30 a.m. docket.

b. Class 3 Misdemeanors, Class 4 Misdemeanors and Infractions Without Citizen Witnesses (only witness is law enforcement officer):

(1). A first continuance may be obtained by agreed order (see Section 2 e below), or by filing a completed Request for Continuance form with court or upon in-court motion by counsel or the prosecuting attorney. Forms are available in the Clerk's Office.

(2). A subsequent continuance may be obtained only by leave of court through agreed order or motion set for 8:30 docket—same procedure as in a above.

c. Preliminary Hearings, Misdemeanors, and Infractions Involving Citizen Victims or Subpoenaed Citizen Witnesses:

(1) If the continuance is requested more than then (10) days before trial, the Court will consider an agreed order that contains certification that witnesses will be notified (see Section 2 e below), or motion may be made at 8:30 a.m. docket after notice to opposing party (**notice to be filed and delivered to opposing counsel no later than 3:00 p.m. on the business day prior to motion**).

(2) If a continuance is requested less than ten (10) days before trial, it will be granted *only* by leave of court on motion at the 8:30 docket when the court is assured that citizen witnesses will be notified of the change to avoid any inconvenience to them.

(3) Continuances requested at time of trial when witnesses are present will be granted only upon showing of good cause by the moving party; good faith showing may consist of exigent circumstances coupled with a bona fide attempt to notify all witnesses prior to trial date.

(a) Parties are urged to communicate by telephone with witnesses to assure appearance or to advise of a continuance. Witnesses must be notified of a continuance as soon as possible to minimize inconvenience to such witnesses. If witnesses report difficulty with proposed a continuance date, it is the responsibility of the moving party to report this to the court for consideration in selecting a new date.

(b) Police officers, magistrates and court personnel are urged to confirm addresses and telephone numbers so as to maximize the ability of parties to communicate with all witnesses and persons involved with cases.

d. Traffic Accident Cases Involving Citizen Witnesses:

Examples of this type of case are citations for failure to yield, following too closely, reckless driving, and driving under the influence.

The witnesses will not be subpoenaed for the first hearing date and will only be subpoenaed if the case is contested. A trial date will then be scheduled if the case is contested or if there will be a need for witnesses in order for the court to properly dispose of the case. Any request for continuance of such a case, and any agreed orders for continuance (see 2 e below), must specify if the request is to continue the case for first return (no witnesses to be subpoenaed), or for trial (officer to subpoena witnesses).

This does not apply to (a) felony charges resulting from an accident involving citizen witnesses, or (b) misdemeanor or traffic charges resulting from an accident involving citizen witnesses, where a felony is also charged. In these situations, the witnesses will be subpoenaed for the first hearing. Examples are as follows:

- (a) Felony DUI/DOS involving an accident with citizen witnesses
- (b) Felony possession of controlled substance, misdemeanor DUI with accident and citizen witnesses-or-Felony possession, DOS, and/or following too closely.

In the above cases the witnesses will be subpoenaed for the preliminary hearing and trial on the first court date.

e. Agreed Orders of Continuance.

The Court will consider entry of agreed orders continuing cases which do not require notice and argument at the 8:30 docket under the foregoing guidelines, and which otherwise meet the Court's criteria for agreed orders as set forth above. Note that the Court requires that any defendant who is incarcerated endorse an agreed continuance order—defense counsel is responsible for determining whether a defendant is incarcerated, and if so, for obtaining the necessary endorsement.

If an agreed order is submitted, counsel is responsible for checking to be sure that the order has been entered. This can be checked through the Court's website at: www.courts.state.va.us. Counsel should bear in mind that there can be several days delay between the time an agreed order is delivered to the Commonwealth's Attorney and the time the entry of the order is posted on the Court's website—review and endorsement by the Commonwealth's Attorney, submission to the Clerk's Office by the Commonwealth's Attorney, pulling case and submission of case and order to a judge, review and entry by a judge, posting by a Clerk, and updating in the computer system, each has the potential for some time lag. Every effort is made by the Court to expedite this process so as to act promptly on orders submitted.

C. MOTIONS.

1. Motions for Discovery:

The Court will generally enter agreed orders of discovery without the necessity of notice and docketing. Attached is a form of discovery order which the Commonwealth's Attorney has indicated will generally be agreed. Motions may also be filed and docketed for an 8:30 docket; these must be filed in the Clerk's Office and served upon the appropriate prosecuting attorney's office no later than 3:00 p.m. on the business day preceding the requested hearing date.

2. Appointment of Counsel to Indigent Defendants

Attorneys who meet the State guidelines to accept court appointment to indigent defendants must abide by **The Standards of Practice of Indigent Defense Counsel** found at:

<http://www.indigentdefense.virginia.gov/PDF%20documents/Standards%20of%20Practice%20120315.pdf>

In addition, attorneys must communicate with their client within 48 hours of the date of appointment. Failure to abide by minimum standards of competent assistance will result in a written letter from the Chief Judge warning of the perceived deficiency and requiring remedial measures to correct the deficiency. Second or subsequent failure to abide by minimum standards of competency will result in suspension from the court appointed attorney list. Failure to abide by minimum standards of competent assistance include but are not limited to:

- i. Failure to communicate with clients in a timely fashion
- ii. Habitual failure to appear in court
- iii. Habitual failure to timely notify the court of the status of a case.
- iv. Failure to secure court permission to substitute counsel.
- v. Failure to secure court permission to excuse a client's appearance in court.

Court appointed counsel may have other attorneys from the same firm appear for pre-trial motions. Court appointed counsel may not substitute any other attorney for trial without prior leave of court. Substitute counsel from the same firm may only substitute in court appointed cases if the new attorney is also on the court appointed list.

3. Other Motions:

Other motions such as motions for a restricted driver's license, extensions of time to pay fines and costs, and the like, may be filed in the Clerk's Office, and will generally be heard on the same day in Courtroom 2 (the Overflow Docket).

D. INCIDENTS OF CRIMINAL TRIAL.

1. Subpoenas:

Subpoena requests must be prepared by counsel or by *pro se* litigants. The Clerks **will** prepare subpoenas **for criminal trials** when the form requesting such a subpoena is correctly completed and filed.

a. How Obtained:

Witness subpoenas may be made on forms available in the Clerk's Office or on the Court's website: www.courts.state.va.us. Similarly, the Clerk's Office has forms available for subpoenas *duces tecum*. A specific list of documents being requested must be provided.

b. Attorney-Issued Subpoenas:

As of July 1, 2007 Virginia law allows for attorney-issued witness subpoenas in criminal and traffic cases. Counsel is responsible for timely filing the names and addresses of subpoenaed witnesses with the Clerk's Office, as required by statute.

c. Timing:

Attorneys are encouraged to file witness subpoenas as far in advance of the hearing date as possible. While the Clerk's Office makes every effort to process requests as expeditiously as possible, as a practical matter, witnesses must be given reasonable notice. This requires advance planning on the part of the requesting party. As a general rule, counsel requesting witness subpoenas must allow at least 14 days *for processing and service*, in addition to the time necessary to provide the recipient with proper notice. Similarly, document subpoenas should be filed far enough in advance to allow reasonable time for processing and service, as well as a sufficient time period for compliance in accordance with the Virginia Rules.

Please take into consideration that the paperwork for subpoenas to be served outside of Prince William County must be forwarded to the appropriate jurisdiction and then go through whatever procedures the Sheriff's Department in the foreign jurisdiction employs. As such, service outside of Prince William County almost certainly takes more time than service within the County. Counsel should plan accordingly and allow more than 30 days.

d. Fees:

There is no fee for filing or serving a criminal witness or document subpoena.

2. Available Equipment:

Each Courtroom has a dry marker board. Consult the bailiff for availability of markers for the blackboard. Counsel must provide any other items. A television monitor and media player are available upon request.

E. PAYMENT OF FINES AND COSTS.

1. Defendant Responsibilities:

A copy of the court's fine, cost, and restitution policy is posted in room 230 of the courthouse.

F. GUILTY PLEAS.

1. Preparation of Plea Forms and Referral Orders:

In an effort to expedite the handling of those cases involving a plea of guilty and a recommendation by the prosecuting attorney of a disposition, a plea form must be prepared for all class 1 and 2 misdemeanor pleas. A separate plea form must be prepared for each class 1 or 2 misdemeanor count for which there will be a guilty plea. For cases involving a referral to the Virginia Alcohol Safety Action Program (**ASAP**) (driving while under the influence, or Section 18.2-251 Code of Virginia), Local Offenders Program (**LOP**) or the Voluntary Action Center (**VAC**) (any misdemeanor charge whether convicted or not requiring community service under 19.2-354), *counsel for the Defendant is expected to prepare* the aforesaid referral order forms or restricted license request form and review the same with his/her client **prior** to the case being called by the court. Forms are available in the Clerk's office and in all courtrooms.

G. RETURN DOCKET FOR ALL JUDGES.

All judges will hear all returns on Monday afternoons at 1:30 p.m. Returns are cases that have been placed on the court docket for post-trial matters, such as violations of probation, failure to pay costs, dismissals, return on traffic school, and ASAP violations.