



# Newport News Police Department - Administrative Manual

## ADM-385 - COURT PROCEDURES

Amends/Supersedes: ADM-385 (09/06/2016)

Date of Issue: 09/25/2017

### I. GENERAL

Supervisors shall assess each case of court absence on an individual basis to determine whether or not the absence is excused. Unexcused absences are to be handled as disciplinary rather than performance issues. Each reported incident will be reviewed on its own merit.

### II. PROCEDURE

#### A. Court Attendance

1. Court pay is authorized for:
  - a. Off-duty depositions for which a subpoena has been issued.
  - b. Pre-trial conferences with the Commonwealth's Attorney, City Attorney, or Assistant United States Attorney (AUSA).
  - c. Court cases for where the appearance is due to an on or off-duty police response.
  - d. Time spent retrieving and returning evidence from the Property and Evidence Unit.
2. Police Department personnel receiving payment for court appearance from another source (such as in civil cases or other employers) are not eligible to receive court pay.
3. When completing the timesheet for court attendance Police Department personnel shall record the actual time of their arrival in the courtroom as well as the actual time their case was concluded and they left the courtroom. Any deviation from this must be approved in advance by a supervisor.
4. Police Department personnel receiving court pay will receive a minimum of two hours of compensation.
5. Travel time to and from court is not compensable unless the court is located in another jurisdiction and is in excess of thirty (30) minutes travel time outside the City of Newport News. In this instance, the travel time will be recorded on an electronic Supplemental Duty Record (NNPD Form #69) and submitted to the officer's immediate supervisor.
6. Prior to their court appearance, personnel are required to check with the appropriate source (dependent upon the type of case being tried) to determine whether they have been excused from the scheduled appearance.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

C. Calling in Absent/Late to Court and Appearance in Multiple Courts

1. When a Police Department employee must call in absent, late, or be required to appear in multiple courts, he will provide the Police Headquarters Building Information Desk personnel with his computer number and two continuance dates prior to 0745 hours of the day of court.
2. For Commonwealth's Attorney's cases in which the employee will be absent from court, the employee shall notify the Commonwealth's Attorney's Office, in addition to notifying the Information Desk personnel. This is necessary in order for the prosecuting attorney to coordinate the issuance of new subpoenas, avoid conflicts with future court dates, etc.
3. Officers/employees who need to be placed on the Court List for an extended period must make this request in writing through their immediate supervisor. The supervisor shall forward copies of the approved letter to his Precinct/Division Commander, Payroll and FMLA Detail, Commonwealth's Attorney's Office and the Information Desk.
4. Copies of the Court List will be disseminated daily (excluding weekends and holidays) by the Records Unit through the City's email system.

D. Submitting Vacation, Schools and Military Notification to the Commonwealth's Attorney

1. In order to have their name placed on the Commonwealth's Attorney's Office Vacation/School List, Police Department personnel must submit a request in writing through their immediate supervisor at least 60 days in advance of the requested date(s). Any request to be placed on the Vacation/School list with less than sixty days notice will not be honored unless extenuating circumstances occur (illness, family emergency, military call-up, etc.).
2. On rare occasions due to speedy trial issues, it may be necessary to schedule a case (e.g., high profile murders and/or violent offenses) for trial on a date where the employee's name appears on the Vacation/School List. Should this occur, a Police Department employee may still be subpoenaed to testify in court. It then becomes the responsibility of the employee to contact the prosecuting attorney to discuss the matter.

NOTE: The fact that an employee's name appears on the Vacation/School List does not allow him to disregard a court subpoena or summons.

3. All Police Department personnel who are activated for mandatory military service shall notify the Commonwealth's Attorney's Office as soon as possible, after receiving their orders. The employee will then be placed on the Court List, indicating that he is on military duty.

E. Scheduling of Court Dates

Officers shall adhere to their assigned court dates and times unless authorized by their respective Assistant Chief or his designee. Officers are to set arraignments for their assigned court date and time.

F. Mandatory Meeting with the Commonwealth's Attorney in Criminal Court Cases

Police employees subpoenaed by the Commonwealth's Attorney's Office for General District Criminal Court are required to attend a meeting with the prosecuting attorney on the day of the trial at 0900 hours, unless previously excused from attending by the Assistant Commonwealth's Attorney assigned the case.

G. Service and Return of Subpoenas for an Employee's Court Appearance

1. The subpoena shall be personally served on the employee, either by his immediate supervisor or an officer acting in the supervisor's behalf. The employee shall not serve the subpoena on himself.
2. If, due to the employee's previously scheduled vacation, training or days off, he will not return for duty prior to the date of trial listed on the subpoena, the employee's immediate supervisor will contact the Prosecuting Attorney, Commonwealth's Liaison, or the issuing court to make them aware of the inability to serve the subpoena.

3. In the event a Police Department employee receives a court subpoena that indicates specific documentation is required or a request to contact the prosecuting attorney is noted, the employee shall contact the prosecuting attorney by the next working day to resolve any issues.

#### H. Summoning of Witnesses and Victims

1. Officers needing witnesses for:
  - a. Traffic Court: Shall submit a Subpoena Card (NNPD Form #54)
  - b. Criminal Court: Shall submit a Request For Witness Subpoena (State Form DC-326)
2. Occasionally it becomes necessary to issue a subpoena for a witness, however; the Commonwealth's Attorney's Office does not have a valid address or necessary contact information. In the event that personal service is critical to the prosecution of the case, the Commonwealth's Attorney's Office may issue a subpoena for the witness in care of a specific officer. If this occurs, the officer named in the subpoena shall make every attempt to locate the witness and ensure he is served the subpoena in a timely manner.

#### I. "Nolle Prossing" Court Cases

An officer may "Nolle Pross" a case:

1. At the request of the Commonwealth's Attorney's Office.
2. By obtaining written permission from his Watch/Division Commander prior to the court date. The officer shall submit a letter requesting permission to "Nolle Pross" the case with an explanation of reason for this action.
3. If after arriving in court, circumstances deem it necessary to "Nolle Pross" a case, an officer may do so provided the Judge of the presiding court agrees. The officer shall then notify his immediate supervisor in writing for the reason the case was "Nolle Prossed" on his next working day.

Michael C. Grinstead  
Acting Chief of Police