

STATE OF SOUTH CAROLINA )  
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IN THE COURT OF GENERAL SESSIONS  
FOURTEENTH JUDICIAL CIRCUIT

**DIFFERENTIATED CASE MANAGEMENT  
ORDER**

2014 JUL -3 PM 2:47  
CLERK OF COURT  
COLLETON COUNTY, S.C.

2014 JUL 30 PM 5:09  
CLERK OF COURT  
COLLETON COUNTY, S.C.

**I. CASE TRACKING**

- A. The Solicitor shall utilize an automated differentiated case management system capable of tracking the following:
  1. The assigned prosecutor;
  2. The date of defendant's arrest and copies of any related documents;
  3. The date of defendant's bond hearing and copies of any related documents;
  4. The date of defendant's indictment; and copies of any related documents
  5. The date of defendant's Initial Appearance and copies of any related documents;
  6. The date of defendants' Second Appearance and copies of any related documents;
  7. Any and all plea offers made;
  8. The Defendants' acceptance or rejection of such offers; and
  9. All subsequent court dates scheduled for the Defendant.

All of this information shall be published to the Public Index by the Clerk of Court. However, the substantive terms of each plea offer shall not be published, only that an offer has been made and the Defendant's response thereto.

- B. The system will also maintain contact information for both the Defendant and Defendant's attorney(s) (including any substitutions of counsel made throughout the pendency of the case).
- C. The Solicitor shall utilize an automated differentiated case management system that is compatible with the case management system used by the Clerk of Courts' offices for the 14th Judicial Circuit. The Chief Judge for Administrative Purposes ("CJAP") and its law clerk shall have unrestricted access to the case management system utilized by the Solicitor and the Clerks of Court.
- D. Each case will be assigned to one of the following Tracks prior to a Defendant's Initial Appearance. All cases will be evaluated on a three hundred and sixty five (365) day disposition timetable.
  1. Track One: The standard disposition timetable for cases. This Track projects for cases to be disposed of within one year of arrest. The objective of the Solicitor's Office is to have eighty percent (80%) of Track One cases disposed of within 365 days of Defendant's arrest.



CERTIFIED TRUE COPIES OF RECORDS 1  
*Patricia C. Grant*  
CLERK OF COURT, CP & GS  
COLLETON COUNTY, SOUTH CAROLINA  
DATE: 6-30-2014

2. Track Two: The following cases shall be exempt from Track One:
  - a. Death Penalty cases;
  - b. Any case in which a death resulted;
  - c. Any case in which DNA evidence is material, based on evaluation by the Solicitor;
  - d. Any case in which the Defendant's competency and/or criminal responsibility has been determined to be an issue and the court has ordered the Defendant evaluated by either the Department of Mental Health or the Department of Disability and Special Needs; and
  - e. Any case which involves multiple co-defendants or unusually complex logistical or factual issues, based on evaluation by the Solicitor.
3. Cases assigned to Track One may be moved to Track Two by:
  - a. Motion of either party to the CJAP; or
  - b. *Sua sponte* motion from the CJAP with sufficient notice to all parties.
4. Cases assigned to Track Two may be moved to Track One by:
  - a. Motion of either party to the CJAP; or
  - b. *Sua sponte* motion from the CJAP with sufficient notice to all parties.
- E. If the Defendant fails to appear and a bench warrant is issued, the time limits contained in this Order are tolled from the date of the failure to appear until the Defendant is returned to custody or the bench warrant is lifted.
- F. A current jail list shall be provided to the CJAP and the presiding judge for any term of General Sessions. The jail list shall include the number of days of incarceration for any defendant in custody awaiting trial. The jail list shall be produced by the official responsible for maintaining the jail for each county of the Fourteenth Judicial Circuit. The jail list shall be provided to the CJAP by the first of each month and to the presiding judge on the first day of each General Sessions term.

## II. ADMINISTRATION

### A. Arrest and Bond Hearings

1. **Bond**: Bond is to be set within 24 hours of arrest with the exception of those offenses which Magistrates and Municipal Judges cannot set bond on. Should a Magistrate or Municipal Judge not be allowed to set bond, bond will be set during the next scheduled General Sessions Term of Court following the Defendant's arrest.
2. **Warrants**: Magistrates and Municipal Judges must transmit warrants to the County Clerk of Court within 15 days of arrest pursuant to Rule 3(a) of the South Carolina Rules of Criminal Procedure.

3. **Appointment of Counsel:** At the conclusion of their bond hearing, all Defendants will be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel.
  - a. Screening by the Magistrate or Municipal Judge shall be done using the pre-hearing interview form.
  - b. If the Defendant qualifies for appointment of counsel, the Public Defender will be appointed to the case by the Magistrate or Municipal Judge.
  - c. **Post-Bond Hearing Screening:** If the Defendant is not screened by the Magistrate or Municipal Judge during their bond hearing, the Defendant may be screened by the Clerk of Court's office using the state-promulgated application for indigent defense. If the Defendant qualifies for appointment of counsel, the Public Defender will be appointed to the case by the Clerk of Court's office.
  - d. **Conflicts:** In all cases in which the Defendant is represented by the Public Defender, the Public Defender will assess the case prior to the Defendant's Initial Appearance for possible conflicts of interest and resolve those conflicts. The Public Defender shall file a conflict order with the Clerk of Court and another attorney shall be appointed to represent the Defendant. The newly appointed attorney shall be notified by the Clerk of Court's Office of their representation.
4. **Notice of Initial Appearance:** The Magistrate or Municipal Judge shall serve the defendant with a Notice of Initial Appearance at the time of the bond hearing.
  - a. The Initial Appearance is to take place within 90 days of their arrest.
  - b. The date of Initial Appearance will be assigned according to a schedule prepared and distributed by the Solicitor's Office.
  - c. The Defendant's attendance at the Initial Appearance will be made a condition of that Defendant's bond.
5. **Preliminary Hearing:** A Preliminary Hearing, if desired, must be requested in writing within ten (10) days of arrest as designated by Rule 2(a) of the South Carolina Rules of Criminal Procedure. Preliminary Hearings will be scheduled by the Magistrate and the Defendant or his/her attorney must be present to be given a Preliminary Hearing. Continuances may be granted for Preliminary Hearings if good cause is shown. A Preliminary Hearing must be requested in writing on or before the Defendant's Initial Appearance date.
6. **Discovery from Law Enforcement:** Law Enforcement agencies must provide all discovery materials (General Sessions case reports, together with all witness statements, video, and audio tapes, photographs, diagrams, and any other material included in the law enforcement case file) in criminal cases to the Solicitor's Office within thirty (30) days of the Defendant's arrest.

- a. Law enforcement agencies shall transmit all discovery to the Solicitor's Office electronically, if available, so as to facilitate an electronic discovery process.
- b. The failure to transmit all discovery materials to the Solicitor's Office within thirty (30) days could result in the remanding of the case to the law enforcement agency.
- c. Law enforcement is under a continuing duty to supplement discovery materials to the Solicitor's Office until the date of trial.

If, after receipt of the discovery and review of the case, the Solicitor's Office determines there is insufficient evidence to present the case for indictment to the Grand Jury, the Solicitor may remand the warrant(s) to the arresting agency for further investigation. The Clerk of Court shall designate such cases as Remanded for Further Investigation.

- d. The Solicitor's Office shall provide notice to the Defendant or his/her attorney and the victim(s) (if applicable) of the change in status of the case.
- e. Law enforcement shall have ninety (90) days from the date of remand to conduct any additional investigation and shall present any additional evidence to the Solicitor's Office.

Law enforcement's failure to (1) provide the Solicitor's Office with complete case files as set forth in this administrative order or (2) conduct additional investigation as required for cases Remanded for Further Investigation may result in the offending law enforcement agency being held in contempt of court and/or the case being dismissed with leave to re-indict. All motions for contempt shall be heard only by the CJAP.

## **B. Grand Jury**

1. Grand Jury will meet prior to Initial Appearance Dates as deemed by the schedule prepared by the Solicitor's Office and approved by the CJAP. Cases will be presented to the Grand Jury within 90 days of arrest of the Defendant.
2. Cases that are deemed unfit for Grand Jury presentation may be remanded to Law Enforcement by the Solicitor's Office for further investigation prior to the Defendant's Initial Appearance date.

## **C. Initial Appearance**

1. Initial Appearance will be held at the County Judicial Centers. Roll call will be conducted by the Solicitor's Office as necessary to ensure attendance.
  - a. The CJAP, or the presiding judge of General Sessions, may issue a Bench Warrant for any Defendant who fails to appear and has not been excused by the Solicitor's Office or the CJAP.
  - b. The Clerk of Court is also authorized to issue bench warrants based upon a written list generated by the Solicitor for those defendants who fail to appear and who have not been excused by the Solicitor's Office or the CJAP.

- c. All attorneys who represent Defendants are required to attend Initial Appearances unless excused by the CJAP or the Solicitor's Office.
  - d. If the Defendant has retained counsel or has had counsel appointed, the attorney for the defendant may waive the defendant's appearance at the Initial Appearance.
  - e. If the Defendant has retained counsel or has had counsel appointed, and the attorney for the defendant has submitted to the Clerk of Court's office the "Initial Appearance Report", then the attorney for the defendant and the Defendant shall be excused from appearing at the Initial Appearance.
2. The following matters will be addressed at the Initial Appearance:
- a. **Representation**: Defendants must be represented by either private counsel or the Public Defender by their Initial Appearance date. If a Defendant is unrepresented at that time, the Defendant may apply for the Public Defender that day by applying through the Clerk of Court's office. The Clerk of Court shall appoint counsel for the Defendant if the Defendant qualifies.
    - i. Failure to retain counsel may be deemed a violation of the Defendant's bond and Defendants who remain unrepresented at the time of Initial Appearance must appear on the next General Sessions court date at which time a Rule to Show Cause Hearing will be held to determine if the Defendant's bond should be revoked.
    - ii. This hearing will be held in front of the CJAP or the presiding Circuit Court Judge.
    - iii. Notice of this hearing may be given orally to the Defendant at Initial Appearance.
    - iv. Any Defendant wishing to proceed *pro se* on a General Sessions charge must appear before either the CJAP or the presiding Circuit Court Judge and be authorized by the Court to do so.
  - b. **Discovery**: By the Initial Appearance date, the Solicitor will provide a discovery packet and a copy of the indictment(s) to the Defendant's attorney. Discovery shall be transmitted to the Defendant's attorney electronically, if available, so as to facilitate an electronic discovery process.
  - c. **Plea Offers**: The Solicitor will also provide a plea offer to the Defendant's attorney on the Initial Appearance date, or not less than 30 days prior to the Defendant's Second Appearance date.
    - i. **In Writing**: All plea offers must be communicated in writing to the Defendant's attorney.
    - ii. **Information**: All plea offers must include the following information, which, when taken together, should constitute the entire plea offer being made: the charges contemplated by the plea, the terms of the offer, a listing of the charges being dismissed, if any, and the offer's expiration date.

- iii. **No Plea Offer:** If the Solicitor's Office does not extend a plea offer, this decision shall be communicated to the Defendant's attorney in writing and denoted by the Clerk of Court on the Public Index.
  - iv. **Pre-Trial Intervention:** If the Solicitor's Office is offering the Defendant the opportunity to participate in its Pre-Trial Intervention (PTI) program, such offer should be made at the Defendant's Initial Appearance. The Defendant will be given thirty (30) days from the Initial Appearance date to sign up for PTI.
- d. **Mental health issues:** During the Initial Appearance, the Defendant's attorney shall notify the Solicitor's Office of any mental health issues the Defendant client may have that affect the disposition of the case.
- i. Should the Defendant's competency and/or criminal responsibility be at issue, the proper procedures shall be followed to engage the appropriate Departments for evaluation of the Defendant by presenting the request to the CJAP.
3. At the Initial Appearance, Defendants will be scheduled for a Second Appearance date. This date will be approximately 90 days after the Initial Appearance.

#### **D. Second Appearance**

1. **CJAP Presides:** The Solicitor shall prepare a schedule of Second Appearance dates and shall submit such schedule to the CJAP for approval. Second Appearances will be presided over by the CJAP, or his/her designee. Second Appearances will take place approximately 90 days from the date of Initial Appearances.
2. **Plea Offers Accepted:** Having received and reviewed plea offers at their Initial Appearances or no later than thirty (30) days prior to their Second Appearance date, Defendants shall notify the Court as to whether they accept or reject the State's offer. If the offer is accepted, the CJAP then schedules the guilty plea.
3. **Plea Offers Rejected:** Rejections of Plea Offers shall be placed on the record during the Second Appearance.
4. **Guilty Plea Paperwork:** Plea paperwork shall be prepared by the Solicitor and presented to the Defendant for signature at the Second Appearance. If not completed at that time, the plea paperwork is to be completed by the last business day before the next term of General Sessions court.
5. **PTI Offers:** Defendants who were offered PTI at their Initial Appearance and who have not signed up as of the date of their Second Appearance will be allowed to sign up for PTI that day. If they do not sign up that day the offer for PTI will be revoked.

6. **Discovery Completion**: both the State and defense counsel must certify to the Court that discovery is completed prior to the case being placed on the trial docket.

### III. DOCKETING

#### A. **Trial Case Preparation and Docket Development**

1. The Solicitor shall have the initial responsibility for preparing and designating when a case is ready for trial. To do so, the Solicitor shall place the case on the General Trial Docket and notify the Clerk of Court and opposing counsel.
2. When a case is eighteen (18) months old, the Solicitor shall automatically place the case on the Priority Trial Docket.
  - a. General Trial Docket – this docket shall include all cases deemed ready for trial which are less than eighteen (18) months old and which do not fall under any scheduling mechanism.
  - b. Priority Trial Docket – this docket shall include
    - i. All cases which are more than eighteen (18) months old, measured from the date of arrest; or
    - ii. Those cases already operating under a scheduling mechanism, regardless of age.
3. By motion of either party and with a court order, or by *sua sponte* motion of the CJAP, a case may be moved from the General Trial Docket to the Priority Trial Docket, but only after written ten (10) days' notice to opposing counsel, or all counsel, based on the following criteria:
  - a. Age of the case
  - b. Jail status of Defendant
  - c. Availability of witnesses
  - d. Defense attorney orders of protection
  - e. Case complexity including co-defendants or multiple pending charges
  - f. Special circumstances, including public safety
4. Appropriate scheduling mechanisms include:
  - a. A formal letter from the Solicitor to the Defendant and defense counsel filed with the Clerk of Court setting forth a specified projected trial date, subject to change by the CJAP.
  - b. Written agreement between the parties setting forth a trial date filed with the Clerk of Court, subject to change by the CJAP.
  - c. Arraignment findings before the presiding judge on the record and reduced to writing in which a specified trial date was ordered filed with the Clerk of Court, subject to change by the CJAP.

- d. Consent scheduling orders setting forth a disposition schedule including status conference dates leading up to a projected trial date, submitted to and signed by the CJAP and filed with the Clerk of Court.
  - e. Status conferences before the CJAP during a term of General Sessions Non-Jury Court to address concerns and develop a disposition schedule as cited above, reduced to writing and filed with the Clerk of Court.
5. At any time, the Defendant may file a motion for a speedy trial in order that his case be placed on either the General Trial Docket or Priority Trial Docket by the CJAP.

**B. Court Week Rosters**

1. The Solicitor shall assemble cases from the two dockets into a proposed Court Week Trial Roster for each term of General Sessions.
  - a. The proposed Court Week Trial Roster shall be in the form of a numbered list and shall include:
    - i. The case name;
    - ii. The charges pending;
    - iii. The attorneys of record;
    - iv. Whether the Defendant is incarcerated or out on bond; and
    - v. How many days have passed since the date of arrest.
  - b. The proposed Court Week Trial Roster shall include not less than ten (10) cases from the Priority Trial Docket and not less than twenty (20) cases from the General Trial Docket.
2. The Solicitor shall provide the CJAP with the proposed Court Week Trial Roster for review and final approval.
  - a. In conjunction with the proposed Court Week Trial Roster, the Solicitor shall also provide the CJAP with a report from the automated differentiated case management system. This report shall be utilized by the CJAP to insure that cases are being called for trial based on the following:
    - i. Age of the case
    - ii. Jail status of Defendant
    - iii. Availability of witnesses
    - iv. Defense attorney orders of protection
    - v. Case complexity including co-defendants or multiple pending charges
    - vi. Special circumstances, including public safety
3. The proposed Court Week Trial Roster may be accepted by the CJAP as submitted or modified by the CJAP and returned to the Solicitor.
4. After approval of the Court Week Trial Roster by the CJAP, the Solicitor and the Clerk of Court are to publish the Court Week Trial Roster to their respective websites.



- a. In addition, the Solicitor shall serve a copy of the Court Week Trial Roster on all Defendants and defense counsel.
  - b. In addition, the Clerk of Court shall serve by electronic mailing a copy of the Court Week trial Roster on all defense counsel.
  - c. Publication and service of the Court Week Trial Roster must occur not less than thirty (30) days prior to a term of General Sessions.
5. In addition to the Court Week Trial Roster, the Solicitor shall also prepare a Court Week Plea Roster for each term of General Sessions. The Court Week Plea Roster shall be a list of all cases where the Defendant has agreed to plead guilty.
    - a. Should a Defendant wish to plead guilty after being placed on the Court Week Trial Roster, the guilty plea shall be added to the Court Week Plea Roster.
    - b. The Solicitor need not have the CJAP approve the Court Week Plea Roster, but the Solicitor should provide the presiding judge with a copy of the Court Week Plea Roster at the start of each term of General Sessions.
  6. All plea paperwork is to be completed by the last business day before the next term of General Sessions court.
  7. Defendants who fail to appear for their scheduled trial may be tried in their absence pursuant to Rule 16 of the South Carolina Rules of Criminal Procedure.
  8. The Solicitor will begin the Bond Estreatment process for any Defendant failing to abide by his/her Terms of Bond by failing to appear.
  9. Nothing in this Order shall be construed to limit a Defendant's right to a speedy trial.

**C. Court Week**

1. On the first day of a term of General Sessions, all assigned Solicitors, Public Defenders, and private counsel having cases on the Court Week Trial Roster and Court Week Plea Roster shall be present in the designated courtroom no later than 9:00 AM for the morning session of court.
2. Cases will be called for trial in the order that they appear on the Court Week Trial Roster.

**IV. RECONCILIATION AND REPORTING**

The Solicitor's Office will perform quarterly audits of its records and will notify the Clerk of Court's Office of the findings of these audits. Any discrepancy between the records of the Solicitor's Office and records of the Clerk of Court's office shall be reconciled immediately.

**AND IT IS SO ORDERED!**

COLLETON COUNTY  
GENERAL SESSIONS COURT  
2014 JUN 30 PM 2:01



Honorable Jean H. Toal  
Chief Justice  
South Carolina Supreme Court

June 19, 2014  
Columbia, South Carolina



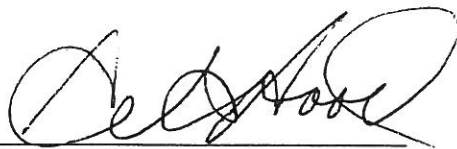
Honorable Perry M. Buckner  
Chief Administrative Judge  
Colleton, Hampton and Allendale Counties  
Fourteenth Judicial Circuit

June 12, 2014  
Walterboro, South Carolina



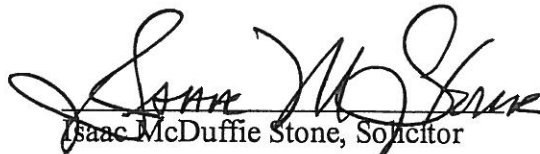
Honorable Carmen T. Mullen  
Chief Administrative Judge  
Beaufort and Jasper Counties  
Fourteenth Judicial Circuit

June 10, 2014  
Beaufort, South Carolina



Gene G. Hood, Public Defender  
Fourteenth Judicial Circuit

11 June, 2014  
Beaufort, South Carolina



Isaac McDuffie Stone, Solicitor  
Fourteenth Judicial Circuit

June 5, 2014  
Beaufort, South Carolina