

# SOUTH CAROLINA COMMISSION ON PROSECUTION COORDINATION

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STATE OF SOUTH CAROLINA)IN THE COURT OF GENERAL SESSIONS))FIRST JUDICIAL CIRCUITCOUNTY OF ORANGEBURG)STATE OF SOUTH CAROLINA)ADMINISTRATIVE ORDER

Beginning with the Roll Call scheduled for Friday, January 18, 2008, the Calhoun County Solicitor's Office will begin processing all pending General Sessions Court cases through a track system. In accordance with the requirements of this system the following rules and procedures are adopted:

1. All cases with a date of arrest prior to January 11, 2008 will be equired to appear for a mandatory First Appearance on January 18, 2007 at the Calhoun Founty Courthouse; St. Matthews, South Carolina.

2. All cases with a date of arrest after January 11, 2008 will be required to appear for a mandatory First Appearance two Fridays before the next scheduled term of General Sessions Court. If, however, the date of arrest is less than two weeks prior to the next term of General Session Court, the case shall be continued to the following term of General Sessions Court.

#### First Appearance

The First Appearance will consist of a roll call being conducted. The Clerk of Court is authorized to issue a bench warrant for any defendant who fails to appear for his/her First Appearance. There will be no continuances of the First Appearance. The following issues will be addressed at the First Appearance:

- 1. Whether the defendant has retained or been appointed counsel;
- 2. Any potential conflicts of interest that may exist;
- 3. Whether the State has provided discovery pursuant to Rule 5;

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Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

4. Any mental health issues; and

5. Any other issue that may affect the timing of the disposition of the case.

At the First Appearance, the case will be assigned to one of two dispositional tracks. Second Appearances will be scheduled as follows:

 Cases assigned to Track One will be scheduled for a Second Appearance for Monday during the second term of General Sessions Court following the First Appearance (approximately 90 days).

 Cases assigned to Track Two will be scheduled for a Second Appearance for Monday during the third term of General Session Court following the First Appearance (approximately 180 days).

#### Second Appearance

The Second Appearance will consist of a roll call being conducted. The Clerk of Court is authorized to issue a bench warrant for any defendant who fails to appear for his/her second appearance. Defense counsel is required to be present with the defendant at the Second Appearance. The defendant, with his/her attorney, should be prepared to inform the Court whether they will be entering a guilty plea or requesting a trial. The Court will then schedule either the plea or trial.

#### <u>Dockets</u>

The Calhoun County Solicitor's Office will prepare and publish a docket of all cases that are subject to being called during the upcoming term of court at least seven (7) days prior to each term of court. The Solicitor's Office will also distribute a copy of the docket to each defense attorney listed on the docket either by facsimile, U.S. mail, or

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hand delivery. It is the responsibility of each attorney listed on the docket to notify

his/her client that their case is scheduled for disposition.

AND IT IS SO ORDERED.

The Honorable James Williams Ohief Administrative Judge First Judicial Circuit

Date: Un 23,2008 Orangeburg, South Carolina

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# STATE OF SOUTH CAROLINA )

# COUNTY OF DORCHESTER

#### The State of South Carolina

# IN THE COURT OF GENERAL SESSIONS

#### **ADMINISTRATIVE ORDER**

Beginning with the Roll Call scheduled for Tuesday, February 21, 2006, the Dorchester County Solicitor's Office will begin processing all pending General Sessions cases through a track system. In accordance with the requirements of this system the following rules and procedures are adopted:

- All cases with a date of arrest of May 1, 2005 or later will be required to appear for a mandatory First Appearance in General Sessions Court at the Dorchester County Courthouse, St. George, S.C. For defendants arrested between October 17, 2005 and December 19, 2005 this First Appearance is scheduled for Tuesday, February 21, 2006 at 9:00 a.m. For those defendants arrested between May 1, 2005 and October 16, 2005, their First Appearance is scheduled for Wednesday, February 22, 2006 at 9:00 a.m. The issues that will be dealt with at a First Appearance will be outlined below.
- 2. All cases with a date of arrest prior to May 1, 2005 will be required to appear for a mandatory Second Appearance in General Sessions Court at the Dorchester County Courthouse, St. George, S.C. The issues and scheduling that will be dealt with at a Second Appearance will be outlined below.

#### First Appearance

The First Appearance will consist of a roll call being conducted. The Clerk of Court is authorized to issue a Bench Warrant for any defendant who fails to appear for his/her First Appearance. There will be no continuances of the First Appearance. The following issues will be addressed at the First Appearance:

- 1. The Court will determine if the defendant has either retained or been appointed counsel. If he/she has not the Court will Order the defendant to either retain private counsel or make application to and be appointed a Public Defender.
- 2. Any potential conflicts of interest that may exist.
- 3. The State will provide discovery to defense counsel, provided an appropriate motion has been filed.
- 4. Any mental health issues.
- 5. Any other issue that may affect the timing of the disposition of the criminal case.

At the First Appearance the case will be assigned to one of three dispositional tracks. Second Appearances will be scheduled as follows: for Track 1 cases the Second Appearance will be scheduled approximately 60 days from the First Appearance, Track 2 cases will be scheduled approximately 120 days from the First Appearance and Track 3 cases will be scheduled approximately 210 days out.

#### Second Appearance

The Second Appearance will consist of a roll call being conducted. The Clerk of Court is authorized to issue a Bench Warrant for any defendant who fails to appear for his/her Second

Appearance. Defense counsel is required to be present with the defendant at the Second Appearance. The defendant, with his/her attorney, should be prepared to inform the Court whether they will be entering a guilty plea or requesting a trial. The Court will then through consultation with the Solicitor and defense counsel schedule either the plea or trial.

#### Dockets

The Dorchester County Solicitor's Office will prepare and publish a docket of all cases that are subject to being called during that court term at least seven days before each term of court. The Solicitor's Office will also distribute the docket to those attorneys listed upon it by either Fax, U.S. Mail or hand delivery. It is the responsibility of all attorneys who have clients on this docket to notify their clients that their case is scheduled for disposition.

#### AND IT IS SO ORDERED.

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Diane S. Goodstein / Chief Administrative Judge First Judicial Circuit

This //2 day of January, 2006 St. George, South Carolina Included in SCCPC's August 15, 2018 letter to the House Oversight Committee

# STATE OF SOUTH CAROLINA COUNTY OF ORANGEBURG THE STATE OF SOUTH CAROLINA

#### ) ) IN THE COURT OF GENERAL SESSIONS

#### ADMINISTRATIVE ORDER

The Administrative Order of Judge Edward B. Cottingham, dated October 30, 2002, which has managed cases in the General Sessions Court since November 4, 2002, is modified to address additional changes to the system. After February 1, 2009, the Solicitor by consent will no longer determine the General Sessions Docket. This authority is voluntarily transferred by the Solicitor to the Honorable James C. Williams, Jr., Chief Administrative for General Sessions, as a pilot program in Orangeburg County. This Order will remain in effect until December 31, 2009.

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This Court orders that all General Sessions cases in which an arrest is made after November 4, 2002, will be processed through the Court under the principles of a track system. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of Orangeburg County, the following will be done:

#### A. BOND HEARING

- 1. Magistrates and Municipal Judges are required to transmit warrants to the Orangeburg County Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.
- 2. All defendants will be screened by the Magistrate or Municipal Judge at their bond hearing to determine if they qualify for appointment of counsel. The screening will be done as prescribed by the Clerk of Court and will be conducted by the on-duty Magistrate or Municipal Judge for all defendants, including those charged by other jurisdictions.
- 3. The defendant will be served with a Notice of Initial Appearance at the time of the bond hearing. The date of the Initial Appearance will be assigned in accordance with the schedule prepared and distributed by the Solicitor's Office. The defendant's attendance at the initial appearance will be made a condition of that defendant's bond by noting this in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. At the time that the Initial Appearance is set, the Judge setting the defendant's bond will inform the defendant in writing and orally of his/her right to a Preliminary Hearing. Dates for any Preliminary Hearings will be scheduled at the defendant's initial appearance.

## B. INITIAL APPEARANCE

- 1. The Initial Appearance will be held at the Orangeburg County Courthouse. Roll Call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue a bench warrant for any defendant who fails to appear and has not been excused by the Solicitor.
- 2. There will be no continuances of Initial Appearances.
- 3. A preliminary hearing, if desired, must be requested in writing on or before the Initial Appearance date.
- 4. The following issues will be addressed at the Initial Appearance:
  - a. If a defendant qualifies for Court appointed counsel and has not retained private counsel by his/her initial appearance, a Public Defender or other assigned attorney shall continue to represent the defendant.
  - b. If a defendant qualifies for a Public Defender but has retained private counsel prior to the Initial Appearance date, then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor and Public Defender. The Public Defender may be relieved by the Court at that time.
  - c. If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Clerk of Court and served on the Solicitor's Office.
  - d. Unrepresented defendants may apply for a Public Defender at the Initial Appearance. The Clerk of Court will take applications and if approved, the Public Defender will be assigned that day.
  - e. Defendants who remain unrepresented at the Initial Appearance must appear on their Second Appearance Returnable date and remain in Court throughout that term until excused by the Solicitor. These defendants must appear for each successive term of Court as required by their bond until their case is disposed.
  - f. Any mental health issues.
  - g. Any issues related to the analysis of drugs or other types of evidence.
  - h. Any other issue that may affect the timing of the disposition of the criminal case.

- 5. The Orangeburg County Public Defender's Office shall be appointed to represent those defendants who qualify. The appointing Magistrate or Municipal Judge shall immediately notify the Clerk of Court and Public Defender's Office of the appointment by fax or inter-office mail. The Public Defender's Office shall immediately review each assignment for any conflict of interest. If no conflict exists, each defendant shall immediately be assigned a Public Defender. If, in the opinion of the Chief Public Defender a conflict of interest exists, the Public Defender's Office shall deliver a proposed Order to be relieved to the Administrative Judge within 5 days of the appointment. A copy of the proposed Order shall be delivered simultaneously to the Solicitor's Office. If the Judge relieves the Public Defender, the Clerk of Court shall within 5 days appoint a member of the private bar and shall so notify the appointed attorney, the Public Defender's Office and the Solicitor's Office.
- 6. It is the intent of this Administrative Order that the Solicitor and defendant's attorneys exchange discovery as early in this process as possible. Accordingly, when feasible, defendants' attorneys and the State will enter into negotiations concerning pleas at the Initial Appearance. Any plea offer(s) must be communicated to defendant at least fourteen (14) days prior to defendant's Second Appearance and accepted or rejected at or prior to defendant's Second Appearance. Likewise, the decision not to negotiate or extend a plea offer shall be communicated to defendant by the Solicitor at least fourteen (14) days prior to defendant's Second Appearance.
- 7. By the Initial Appearance, the Solicitor shall provide discovery in all cases where the appropriate motions have been filed with the Clerk of Court and served on the Solicitor's Office. Sensitive materials will only be excluded from discovery upon the order of the Chief Administrative Judge. This includes video/audio tapes where necessary to protect the identity and safety of confidential informants.
- 8. All law enforcement agencies are required to forward a copy of their complete file including photographs, audio and video tapes to the Solicitor's Office no later than fifteen days prior to the Initial Appearance date.
- 9. At the Initial Appearance, the casc will be assigned to one of three dispositional tracks. These tracks will be 120, 180 and 270 days long. Assignment of cases to a track will be the sole responsibility of the Solicitor's Office, and done at the sole discretion of the Solicitor's Office. Murder cases, criminal sexual conduct cases and criminal sexual conduct with a Minor cases will not fall within the guidelines of any track. The Chief Administrative Judge must approve any deviation from the track. Cases in which the arrest was made prior to November 4, 2002, shall be incorporated into the tracking system at the discretion of the Chief Administrative Judge.
- 10. The length of the track in which a case is placed determines the deadline by which a case should be disposed of. The date is calculated from the Initial Appearance date. If the date falls within a non-court week, it will be extended until the end of the next term of Court.

- 11. If the plea negotiations are unsuccessful at the Second Appearance, the case will be scheduled for trial before one of the presiding General Sessions Judges. Except for good cause shown to the Chief Administrative Judge, the Chief Administrative Judge must hear any plea taken after the case is scheduled for trial.
- 12. Cases may be resolved at any time prior to the specified guidelines.

#### C. <u>PRELIMINARY HEARINGS</u>

- 1. Preliminary hearings shall be held at the Orangeburg Law Complex or appropriate Municipal Court. The presiding Magistrate shall be appointed by the Chief Magistrate.
- 2. Continuances of preliminary hearings may be granted only in extreme circumstances.
- 3. The defendant or his/her attorney must be present to be given a preliminary hearing. If a hearing has been requested in a case that involves an individual affiant, the failure of that affiant to appear and give testimony will result in the dismissal of the warrant if the defendant and/or his/her lawyer appear and make the appropriate motion.

#### D. GENERAL SESSIONS COURT PRACTICE

- 1. The Solicitor's Office will, within five (5) days of the end of each court term, provide the Chief Administrative Judge a list of all pending cases.
- 2. Presiding Judge will be available from 9:00-9:30 a.m. on Monday through Thursday of each General Sessions term to hold case status conferences with attorneys for the State and the defense. Conferences may be requested by either party and once scheduled, appearance is mandatory. The Chief Administrative Judge may require a status conference on any case at anytime.
- 3. At least ten (10) days prior to each term of court, the Chief Administrative Judge of General Sessions will prepare and publish a docket of all cases that are subject to being called during that term of court. Making the docket available in the Judge's Office shall effect publication. The Solicitor's Office will also distribute the docket to those attorneys listed upon it by either fax, U.S. Mail, or by hand delivery. It is the responsibility of all attorney who have clients on this docket to notify their clients that their case is scheduled for disposition.

### AND IT IS SO ORDERED.

The Honorable Jean H. Toal Chief/Justice, South Carolina Supreme Court

Jan 23, 2009

#### WE SO MOVE AND CONSENT:

inter receipt

David M. Pascoe, Jr. Solicitor, First Judicial Circuit

Mark A. Leiendecke

Chief Public Defender, First Judicial Circuit

# The Supreme Court of South Carolina

### ORDER

The Honorable Howard P. King, Chief Judge for Administrative Purposes for the Second Judicial Circuit (General Sessions) for the period of January 4, 2009 through January 2, 2010, submitted for approval the attached administrative order dated February 9, 2009 establishing certain local rules for the processing of criminal cases in Aiken County. Therefore,

Pursuant to the provisions of S.C. CONST. Art. V, §4, the Administrative Order is hereby approved for use in Aiken County.

IT IS SO ORDERED.

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Jean Hoefer Toal Chief Justice

February <u>1</u>, 2009 Columbia, South Carolina

March 10

( by Cor . Sulle Tel Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

))	IN THE COURT OF GENERAL SESSIONS FOR THE SECOND JUDICIAL CIRCUIT
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)	AMENDED
)	CASE MANAGEMENT
)	ADMINISTRATIVE ORDER
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Pursuant to the authority vested in this Court by the attached Administrative Order (Exhibit A) issued by The Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Case Management Administrative Order is hereby adopted for the Aiken County General Sessions Court.

This Court hereby declares and orders that all General Sessions cases arising after February 1, 2009 will be processed through the Court under the principles of this Administrative Order. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of this County, the following shall be done:

#### I. BOND HEARING

- a. General Sessions bond hearings at Doris G. Gravatt Detention Center and on various occasions at local Magistrate Offices shall be held at 10:00 am and 3:00 pm on weekdays, and 10:00 am and 3:00 pm on weekends. Prior to setting bond, the presiding Magistrate shall be provided a packet for each General Sessions case consisting of the victim documentation, warrant/ticket and defendant's NCIC criminal history.
- b. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances (see attached) at the time of the bond hearing. The defendant's attendance at these hearings shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. The dates of the Initial Appearance hearing and Second Appearance shall be assigned by the Bonding Magistrate in accordance with the schedule prepared and supplied by the Solicitor's Office.
- c. During the course of the bond hearing the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his or her right to a Preliminary Hearing. Preliminary Hearings shall be waived or scheduled at Initial Appearance.
- d. At the conclusion of their bond hearing, all General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Such screening will be done in a manner as prescribed

Attachment A - Compilation of Case Management Staters (SCCPC - LOC 8-15-18)

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by the Clerk of Court and in consultation with the Public Defender's Office. Should the Court determine that the defendant qualifies for court appointed counsel, the Judge shall assign the Aiken County Public Defender's Office to represent the defendant. The Defendant has to pay the Public Defender fee of \$40.00 when requested by the Public Defender's Office. The Magistrates and Municipal Judges shall maintain a record of the defendants who qualify for court appointed counsel and shall notify the Public Defender's office, in writing via fax or email, of their appointment at the conclusion of each day's bond hearing.

- e. A prosecutor from the Solicitor's Office may attend General Sessions Court bond hearings held at Doris G. Gravatt Detention Center as needed and in accordance with existing procedures.
- f. Magistrates and Municipal Judges shall transmit warrants and Affidavit of Indigency and Bond Paperwork to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.
- g. Magistrates and Municipal Judges shall transmit appropriate paperwork to Public Defender Warrant, Affidavit, Bond Paperwork (Public Defender's box).

#### II. DISCOVERY

- a. All law enforcement agencies shall provide copies of General Sessions case reports, together with all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case file, to the Solicitor's Office within fifteen (15) days of the <u>arrest</u> of the defendant.
- b. The Solicitor's Office shall prepare a defense discovery packet on all General Sessions cases before the defendant's Initial Appearance date. Further, the Solicitor's Office shall provide the defense discovery packet, on or before the Initial Appearance date, to any attorney that has filed a general letter of representation along with the appropriate discovery request with the Solicitor's Office.
- c. Where feasible, the Solicitor's Office shall prepare a written plea offer for the defendant's attorney for every General Sessions case, no later than fourteen (14) days prior to the defendant's Second Appearance date. As a matter of practice the written plea offer shall, at a minimum, contain a listing of the charges contemplated by the offer, the terms of the offer and the expiration date of the offer, which would normally be the Second Appearance Date. The Court anticipates that some cases will not have all reports (forensic) completed in time to make a reasonable offer prior to Second Appearance.

#### **III. INITIAL APPEARANCE**

- a. The Initial Appearance shall be presided over by a Magistrate who will be assigned by the Chief Magistrate.
- b. The following Parties must attend: the Defendant, his/her Defense Attorney, a representative of each arresting law enforcement agency with authority to negotiate disposition of warrants, assigned Solicitors, and appropriate Solicitor support staff.

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

- c. The Initial Appearance hearing will be held in Courtroom 4 or another Courtroom so designated of the Aiken County Judicial Center on Friday at 9:00 am as set forth in the schedule prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge for General Sessions Court.
- d. There shall be no continuances of Initial or Second Appearances. Defendants may be excused from Initial or Second Appearances by the Solicitor's Office if all matters to be addressed during these Appearances have been addressed by the parties prior to the hearing, and the required paperwork has been filed with the Solicitor's Office within 48 hours of the scheduled Appearance.
- e. The issue of legal representation shall be addressed at the Initial Appearance hearing. The Preliminary Hearings shall be either waived or scheduled at Initial Appearance.
- f. If a defendant qualifies for a Public Defender, but has retained private counsel prior to the Initial Appearance date, then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
- g. If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Solicitor's Office on or before the initial appearance.
- h. Unrepresented defendants, who have not done so, may apply for a Public Defender at the Initial Appearance. Applications will be taken by Public Defender personnel and, if approved, will be assigned an attorney that day. The Defendant must pay the Public Defender application fee of \$40.00 when requested.
- i. Defendants who remain unrepresented at the Initial Appearance must appear for the next terms of General Sessions's court and remain in Court throughout that term until excused by the Court or the Solicitor's Office. These defendants must appear for each successive term of Court as required by their bond until the disposition of their case.
- j. In all cases where the defendant is represented by the Public Defender the defense attorney shall assess the case at the initial appearance for possible conflicts on that date. The Clerk shall, upon receipt of the Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant as to the identity of their attorney. The newly appointed counsel shall also be notified. Discovery material shall be transmitted to the successor attorney by the attorney being relieved of representation.
  - k. Issues of competency shall be addressed at the Initial Appearance. When appropriate, defense counsel shall move for a competency evaluation, and the State may consent to a competency evaluation of the defendant at the Initial Appearance. In the alternative, the State and defense may schedule a hearing to determine if a competency evaluation is necessary.
  - 1. All defense attorneys shall meet in person with their clients prior to the Initial Appearance hearing for the purpose of discussing all matters relating to the

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defendant's case. Attorney's for Defendant's who are incarcerated shall meet with their clients prior to Initial Appearance and Second Appearance to get the proper forms, notices and offers reviewed and signed. Prior to the Initial Appearance, the case will be assigned a final disposition date falling into one of four dispositional tracks: 180 days, 270 days, or 365 days, or exempt (complex cases). The assignment of each case to a track is the responsibility of the Solicitor's Office and is done at the sole discretion of the Solicitor. All cases involving loss of life (murder, voluntary manslaughter, felony DUI, etc.) are designated as exempt and will not be assigned a disposition date. The Solicitor shall maintain a record of such designated cases to monitor them and provide information regarding them to the Chief Administrative Judge. Cases with complicated forensic, mental health or other compelling issues may be designated exempt by the Solicitor, and be put in the exempt track. These cases will not be assigned a final disposition date and will not be used to calculate CCM case disposition statistics. The disposition date will be calculated from the initial appearance date. It is the objective of all parties to have every case concluded on or before its assigned disposition date.

#### **IV. INDICTMENTS**

- a. All General Sessions cases to be presented for indictment shall be presented to the Aiken County Grand Jury within ninety (90) days of the case being transmitted by the Clerk of Court to the Solicitor's Office and in accordance with the *South Carolina Rules of Criminal Procedure*. This Court recognizes that due to the nature or type, certain cases may not be prepared to go to the Grand Jury within ninety days and grants an extension in those instances.
- b. In accordance with South Carolina law, no preliminary hearings will be held on indicted cases.

### V. SECOND APPEARANCE

- a. The following Parties must attend: Defendant, Defense Attorney, law enforcement representative (with authority to make final decisions of agency cases), Solicitor, and the victim will be notified.
- b. The Defendant and his attorney shall attend the mandatory Second Appearance at a date and time, in accordance with the schedule to be supplied by the Solicitor. The Defendant shall be given this appearance date upon bond being set by the Magistrate.
- c. The Clerk is authorized to issue bench warrants on the defendants who fail to appear at their Second Appearance and have not been excused by the Solicitor's Office or the Chief Administrative Judge for General Sessions.
- d. The Solicitor shall make an offer not less than fourteen (14) days prior to the Defendant's Second Appearance on those cases that the prosecution file is complete. The Defendant must accept the offer, or decline it, at the Second Appearance. If the offer is accepted, a plea shall be scheduled in accordance with the court schedule. If it is declined the offer shall be deemed withdrawn by the

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

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- Solicitor and a trial date shall be set.
- e. For all cases that pre-date this Administrative Order, the Solicitor's Office may schedule a Second Appearance Court Date. If a Second Appearance is scheduled on a case that pre-dates this Order, all other rules that apply herein to a Second Appearance shall be in effect.

# VI. COURT APPEARANCES

- a. If the case is not set for disposition on a date certain at the Second Appearance, the Defendant must appear at such further dates and times as shall be communicated in writing to his/her attorney. Failure to appear at future dates and times as set by the Solicitor shall subject the Defendant to a bench warrant by he Court.
- b. Any failure of the Defendant to appear for his court appearances, including Initial Appearance and Second Appearances, and any further dates required to resolve his/her case, may result in a bench warrant from the Court.

# VII. GENERAL SESSIONS COURT PACKAGE

- a. A proposed trial roster shall be prepared fourteen (14) days prior to each term of court by the Solicitor's Office and transmitted via email to the Public Defender for Aiken County, all private defense lawyers representing Defendants on the proposed trial roster, and the Chief Administrative Judge for General Sessions Court.
- b. In addition to the trial roster referred to above, a General Sessions docket shall be prepared for each term of General Sessions Court. The docket may cover a twoweek term of court. The docket shall be prepared and published at least seven (7) days prior to the term of Court and will be posted in the Courthouse, provided to the Chief Public Defender for Aiken County, and to the Chief Administrative Judge for General Sessions Court.
- c. Motions for continuance and requests for Orders of Protection shall be served upon the Chief Administrative Judge for General Sessions Court or his designee and the Solicitor's Office no later than seven (7) days prior to the commencement of the court term. The Court will endeavor to hear and rule on the motions for continuance and requests for Orders of Protection before the commencement of the term of court.
- d. During a term of General Sessions Court, or Initial and Second Appearances, all assigned Solicitors and Public Defenders shall be present in the designated courtrooms no later than 9:00 am for the morning session of court and 1:30 pm for the afternoon session of court, unless directed otherwise by the presiding Judge.
- e. Nothing in this Order shall be construed by this Court or any other Court as reason for a case to be judicially dismissed. This Order is intended to be strictly administrative in nature.

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IT IS SO ORDERED.

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The Honorable Howard P. King Chief Administrative Judge Second Judicial Circuit

February <u>9</u>, 2009 Aiken, South Carolina ) ))

COUNTY OF BAMBERG

#### STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS FOR THE SECOND JUDICIAL CIRCUIT

#### COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the attached Administrative Order (Exhibit A) issued by The Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Cooperative Case Management Administrative Order is hereby adopted for the Barnwell County General Sessions Court.

This Court hereby declares and orders that all General Sessions cases arising after January 1, 2008 will be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of this County, the following shall be done:

#### I. BOND HEARING

- a. General Sessions bond hearings will be held at Bamberg County Detention Center or the office of the Magistrate or Municipal Judge who issued the warrant if at all possible and in accordance with current practices. Prior to setting bond, the presiding Magistrate or Municipal Judge shall be provided a packet for each General Sessions case consisting of the incident report, warrant/ticket and defendant's NCIC criminal history.
- b. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances (see attached) at the time of the bond hearing. The defendant's attendance at the Initial General Sessions Appearance hearing and docket appearance hearing shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. The dates of the Initial General Sessions appearance hearing and the docket appearance hearing shall be assigned in accordance with the schedule prepared and supplied by the Solicitor's Office.
- c. During the course of the bond hearing the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his or her right to a Preliminary Hearing. Preliminary Hearings shall be waived or scheduled at the Initial General Sessions Appearance.
- d. At the conclusion of their bond hearing, all General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for

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appointment of counsel. Such screening will be done in a manner as prescribed by the Clerk of Court in consultation with the Bamberg County Public Defender. Should the Court determine that the defendant qualifies for court appointed counsel; the Judge shall assign the Bamberg County Public Defender to represent the defendant. The Magistrates and Municipal Judges shall maintain a record of the defendants who qualify for court appointed counsel and shall notify the public defender's office, in writing via fax or email, of their appointment at the conclusion of each day's bond hearing.

e. Magistrates and Municipal Judges shall transmit warrants to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.

#### II. DISCOVERY

- a. All law enforcement agencies shall provide copies of General Sessions case reports, together will all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case file, to the Solicitor's Office within ten (10) days of the arrest of the defendant. If the case file remains incomplete fifteen (15) days after arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items for which law enforcement is waiting.
- b. The Solicitor's Office shall prepare a defense discovery packet on all General Sessions cases before the defendant's Initial General Sessions Appearance date. Further, the Solicitor's Office shall provide the defense discovery packet, on or before the Initial General Sessions Appearance date, to any attorney that has filed a general letter of representation along with the appropriate discovery request with the Solicitor's Office.
- c. The Solicitor's Office shall prepare a written plea offer for every General Sessions case before the defendant's initial appearance date. The plea offer shall be provided, on or before the defendant's initial appearance date, to any attorney that have filed a general letter of representation with the Solicitor's Office. As a matter of practice the written plea offer shall at a minimum contain a listing of the charges contemplated by the offer, the terms of the offer and the expiration date of the offer.

#### **III. INITIAL GENERAL SESSIONS APPEARANCE**

- a. The Initial General Sessions Appearance shall be presided over by a Magistrate who will be assigned by the Chief Magistrate.
- b. The following Parties must attend: the Defendant, his/her Defense Attorney, a representative of each arresting law enforcement agency with authority to negotiate disposition of warrants, assigned Solicitors. And appropriate Solicitor support staff.
- c. The Initial General Sessions Appearance hearing will be held in Bamberg County Courthouse as set forth in the schedule prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk is

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authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge for General Sessions Court.

- d. There shall be no continuances of Initial General Sessions Appearances. Defendants ma may be excused from Initial General Sessions Appearance, by the Solicitor's Office if all matters to be addressed during Initial General Sessions Appearance have been addressed by the parties prior to the hearing, and the required paperwork has been filed with the Solicitor's Office within 48 hours of the scheduled Initial General Sessions appearance.
- e. The issue of legal representation shall be addressed at the Initial General Sessions Appearance hearing. The Preliminary Hearings shall be either waived or scheduled at the Initial General Sessions Appearance.
- f. If a defendant qualifies for a Public Defender, but has retained private counsel prior to the Initial General Sessions Appearance date, then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
- g. If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Solicitor's Office on or before the Initial General Sessions appearance.
- h. Unrepresented defendants may apply for a Public Defender at the Initial General Sessions Appearance. Applications will be taken by the clerk and, if approved, will be assigned that day.
- i. Defendants who remain unrepresented at the initial appearance must appear at the next term of General Sessions court and remain in Court throughout that term until excused by the Court or the Solicitor's Office. These defendants must appear for each successive term of Court as required by their bond until the disposition of their case.
- j. In all cases where the defendant is represented by the Public Defender shall assess the case at the initial appearance for possible conflicts on that date. The Clerk shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant as to the identity of their attorney. The newly appointed counsel shall also be notified.
- k. Issues of competency shall be addressed at the Initial General Sessions Appearance. When appropriate, defense counsel shall move for a competency evaluation, and the State may consent to a competency evaluation of the subject defendant at the Initial General Sessions Appearance. In the alternative, the State and defense may schedule a hearing to determine if a competency evaluation is necessary.
- In all cases where it is feasible to do so, at Initial General Sessions Appearance the defendant and the State shall enter into negotiations concerning pleas and scheduling. All offers tendered at the Initial General Sessions Appearance must be accepted or rejected by Monday of the next term of General Sessions's court.
- m. In order to be prepared to respond to the State's plea offer in a timely manner, all defense attorneys shall meet in person with their clients prior to the Initial General Sessions Appearance, if at all possible, for the purpose of discussing the State's plea offer and all other matters relating to the defendant's case. If they are unable

to meet prior to the Initial General Sessions Appearance a meeting shall be set at the Initial Appearance and scheduled within a week to timely respond to the State's plea offer.

n. Prior to the Initial General Sessions Appearance, the case will be assigned a final disposition date approximately one hundred twenty (120) days from the date of the initial appearance. Should the disposition date fall on a non-court week, it will be extended until the end of the next term of court. The disposition date will be calculated from the Initial General Sessions Appearance date. It is the objective of all parties to have every case concluded on or before its assigned disposition date. All cases involving loss of life (murder, voluntary manslaughter, felony DUI, etc.) are not assigned a final disposition date and will not be used to calculate Cooperative Case Management case disposition statistics. The Solicitor shall maintain a record of such designated cases to monitor them and provide information regarding them to the Chief Administrative Judge. Cases with complicated forensic, mental health or other compelling issues may be designated complex by the Solicitor, and be put in the exempt track. These cases will not be assigned a final disposition date and will not be used to calculate Cooperative case disposition date and will not be assigned a final disposition date and will not be designated complex by the Solicitor, and be put in the exempt track. These cases will not be assigned a final disposition statistics.

#### **IV. INDICTMENTS**

- a. All General Sessions cases to be presented for indictment shall be presented to the Bamberg County Grand Jury within ninety (90) days of the case being transmitted by the Clerk of Court to the Solicitor's Office and in accordance with the *South Carolina Rules of Criminal Procedure.* This Court recognizes that due to the nature or type, certain cases may not be prepared to go to the Grand Jury within ninety days and grants an extension in those instances.
- b. In accordance with South Carolina law, no preliminary hearings will be held on indicted cases.

#### V. REFER FOR ADDITIONAL INVESTIGATION

- a. If the assigned prosecutor determines, within ninety (90) days of the date of arrest, that insufficient evidence exists to present a case to the Grand Jury, he or she may refer the warrant(s) back to the investigating agency for further investigation.
- b. Upon referral, the assigned prosecutor shall provide written notification to the victim(s) if applicable, and the investigating agency of the change in status of the warrant. The investigating agency shall have ninety (90) days from the date of referral to conduct such additional investigation as requested and as it deems appropriate and shall present any additional evidence to the assigned prosecutor for consideration.
- c. Upon providing notice of referral for further investigation, the Solicitor's Office shall remove the warrant(s) from the assigned prosecutor's pending case list and shall classify them separately as "referred for further investigation".

- d. Once the investigating agency has concluded its additional investigation, it shall present its evidence to the assigned prosecutor, whom will then determine if sufficient evidence exists to present the case to the Grand Jury or otherwise advance the prosecution.
- e. Should the investigating agency fail to present sufficient evidence to the assigned prosecutor within ninety days, then the Solicitor's Office shall administratively dismiss the warrant(s) without prejudice and shall notify the victim(s) if applicable, and the investigating agency
- f. Should the assigned prosecutor determine that sufficient evidence exists to advance the prosecution of the case, it shall restore the warrant(s) back to the his or her pending case list so that he or she may take the steps necessary to move the case toward disposition. The assigned prosecutor may request that a referred warrant be restored at any time prior to the warrant's administrative dismissal deadline.
- g. Nothing in this section shall be construed as limiting the state's authority to directly present criminal cases to the Grand Jury for indictment.

## VI. GENERAL SESSION, ROLL CALL AND STATUS CONFERENCE

- a. The Docket Appearance hearing will be held along with general roll call at the Bamberg County Courthouse on the designated Mondays at 9:00 am of scheduled terms of General Sessions Court. General roll call will include those defendants whose cases have been directly presented to the Grand Jury and/or whose docket appearance dates have passed without the disposition of their cases. The general roll call docket will be prepared by the Solicitor's Office and posted as set forth above. Defendants and defense counsel are required to appear for Docket Appearance and general roll call and must remain until excused by the Court or a representative of the Solicitor's Office. The Clerk is authorized to issue bench warrants for those defendants who fail to appear for Docket Appearance or general roll call and also for those defendants that fail to remain until excused from Docket Appearance or general roll call. Attorneys for the state and defense that fail to appear are subject to being held in contempt.
- b. All the parties shall, during this appearance, engage in final plea negotiations. In those cases where a plea agreement or other disposition is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and/or schedule the plea as needed to dispose of the case.
- c. Plea Offers shall expire at the end of the business day on the Docket Appearance date and in general will not be extended unless the defendant can demonstrate a material change in circumstances or some other exceptional situation.
- d. The presiding General Sessions Court Judge will hold Status Conferences for cases that remain unresolved on the Monday of the Docket Appearance hearing or at such other convenient time for the purpose of assisting the parties in resolving cases.
- e. Defendants who remain unrepresented on their Docket Appearance must be present in Court throughout the following term. These defendants must appear for each successive term of Court as required by their bond until their case is

disposed.

#### VII. GENERAL SESSIONS COURT PACKAGE

- a. A proposed trial roster shall be prepared fourteen (14) days prior to the terms of court by the Solicitor's Office and provided to the Public Defender for Bamberg County, all private defense lawyers representing Defendants on the proposed trial roster, and the Chief Administrative Judge for General Sessions Court.
- b. In addition to the trial roster referred to above, a roll call roster shall be prepared for each term of General Sessions Court. Both the proposed trial roster and the roll call roster shall be prepared and published at least fourteen (14) business days prior to the term of Court and will be posted in the Courthouse, provided to the Chief Public Defender for Barnwell County, and to the Chief Administrative Judge for General Sessions Court.
- c. All motions for continuance and requests for orders of protection shall be served upon the Chief Administrative Judge for General Sessions Court or his designee and the Solicitor's Office no later than seven (7) days prior to the commencement of the court term The Court will endeavor to hear and rule on the motions for continuance and requests for orders of protection before the commencement of the term of court.
- d. During a term of General Sessions Court all assigned solicitors and public defenders shall be present in the designated courtrooms no later than 9:00 am for the morning session of court and 1:30 pm for the afternoon session of court, unless otherwise directed by the presiding Judge.

Nothing in this order shall be construed by this Court or any other Court as reason as a reason for a case to be judicially dismissed. This order is intended to be strictly administrative in nature.

IT IS SO ORDERED.

The Honorable Doyet A. Early III Chief Administrative Judge Second Judicial Circuit

January South Carolina

DRAFT 1/9/08

Included in SCCPC's August 15, 2018 letter to the House Oversight Committee

THE STATE OF SOUTH CAROLINA )	IN THE COURT OF GENERAL SESSIONS
COUNTY OF BAMBERG )	SECOND JUDICIAL CIRCUIT
)	
THE STATE OF SOUTH CAROLINA )	
	)
VS.	) NOTICE OF DATE AND TIME
	) OF
	) MANDATORY COURT INITIAL APPEARANCE
Defendant	)

#### \*\*THIS IS THE ONLY NOTICE YOU WILL RECEIVE\*\* KEEP A COPY FOR YOUR RECORDS

You are a Defendant in a Criminal Case. You are required to appear at:

The Bamberg County Courthouse, 2959 Main Highway, Bamberg, South Carolina 29003 The dates and times of these appearances CANNOT be changed for any reason.

Your INITIAL APPEARANCE is set for the day of

, 20 at 1:00 a.m. in the Main Courtroom.

#### FAILURE TO APPEAR WILL RESULT IN YOUR ARREST

You MUST be present at this appearance. If you FAIL TO APPEAR on this date and time, a Bench Warrant will be issued for your arrest; you will be placed in jail and may be held until the trial of your case.

- □ I waive any right to the services of a Public Defender. I understand that I must either hire a private attorney or represent myself.
- You have not qualified for a Public Defender. You must either hire a private attorney or represent yourself.
- You have qualified for a Public Defender. You will go to the Clerk of Court's Office at the Bamberg County Courthouse. There is a State mandated application fee of \$40.00 you must pay at that time. You must take copies of Warrants with you or you cannot be processed. Failure to do so may result in your bond being revoked.

#### FAILURE TO OBTAIN AN ATTORNEY MAY RESULT IN YOUR BOND BEING REVOKED, BEING HELD IN CONTEMPT OF COURT, FINES, AND/OR JAIL.

I HAVE READ THIS FORM OR HAVE HAD IT READ TO ME. I UNDERSTAND THESE INSTRUCTIONS, AND I HAVE BEEN GIVEN A COPY TO KEEP.

Defendant's Signature

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Judge's Signature

Date

Date

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

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COUNTY OF BARNWELL

#### STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS FOR THE SECOND JUDICIAL CIRCUIT

#### COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the attached Administrative Order (Exhibit A) issued by The Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Cooperative Case Management Administrative Order is hereby adopted for the Barnwell County General Sessions Court.

This Court hereby declares and orders that all General Sessions cases arising after January 1, 2008 will be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of this County, the following shall be done:

#### I. BOND HEARING

- a. General Sessions bond hearings will be held at Barnwell County Detention Center or the office of the Magistrate or Municipal Judge who issued the warrant if at all possible and in accordance with current practices. Prior to setting bond, the presiding Magistrate or Municipal Judge shall be provided a packet for each General Sessions case consisting of the incident report, warrant/ticket and defendant's NCIC criminal history.
- b. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances (see attached) at the time of the bond hearing. The defendant's attendance at the Initial General Sessions Appearance hearing and docket appearance hearing shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. The dates of the Initial General Sessions Appearance hearing and the docket appearance hearing shall be assigned in accordance with the schedule prepared and supplied by the Solicitor's Office.
- c. During the course of the bond hearing the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his or her right to a Preliminary Hearing. Preliminary Hearings shall be waived or scheduled at the Initial General Sessions Appearance.
- d. At the conclusion of their bond hearing, all General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for

appointment of counsel. Such screening will be done in a manner as prescribed by the Clerk of Court in consultation with the Barnwell County Public Defender. Should the Court determine that the defendant qualifies for court appointed counsel; the Judge shall assign the Barnwell County Public Defender's Office to represent the defendant. The Magistrates and Municipal Judges shall maintain a record of the defendants who qualify for court appointed counsel and shall notify the public defender's office, in writing via fax or email, of their appointment at the conclusion of each day's bond hearing.

e. Magistrates and Municipal Judges shall transmit warrants to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.

#### II. DISCOVERY

- a. All law enforcement agencies shall provide copies of General Sessions case reports, together will all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case file, to the Solicitor's Office within ten (10) days of the arrest of the defendant. If the case file remains incomplete fifteen (15) days after arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items for which law enforcement is waiting.
- b. The Solicitor's Office shall prepare a defense discovery packet on all General Sessions cases before the defendant's Initial General Sessions Appearance date. Further, the Solicitor's Office shall provide the defense discovery packet, on or before the Initial General Sessions Appearance date, to any attorney that has filed a general letter of representation along with the appropriate discovery request with the Solicitor's Office.
- c. The Solicitor's Office shall prepare a written plea offer for every General Sessions case before the defendant's initial appearance date. The plea offer shall be provided, on or before the defendant's initial appearance date, to any attorney that have filed a general letter of representation with the Solicitor's Office. As a matter of practice the written plea offer shall at a minimum contain a listing of the charges contemplated by the offer, the terms of the offer and the expiration date of the offer.

#### **III. INITIAL GENERAL SESSIONS APPEARANCE**

- a. The Initial General Sessions Appearance shall be presided over by a Magistrate who will be assigned by the Chief Magistrate.
- b. The following Parties must attend: the Defendant, his/her Defense Attorney, a representative of each arresting law enforcement agency with authority to negotiate disposition of warrants, assigned Solicitors. And appropriate Solicitor support staff.
- c. The Initial General Sessions Appearance hearing will be held in Barnwell County Courthouse as set forth in the schedule prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk is

authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge for General Sessions Court.

- d. The Barnwell County Sheriff's Office shall provide security for Initial General Sessions Appearance.
- e. There shall be no continuances of Initial Appearances. Defendants may be excused from Initial General Sessions Appearance, by the Solicitor's Office if all matters to be addressed during Initial Appearance have been addressed by the parties prior to the hearing, and the required paperwork has been filed with the Solicitor's Office within 48 hours of the scheduled initial appearance.
- f. The issue of legal representation shall be addressed at the Initial General Sessions Appearance hearing. The Preliminary Hearings shall be either waived or scheduled at the Initial General Sessions Appearance.
- g. If a defendant qualifies for a Public Defender, but has retained private counsel prior to the Initial General Sessions Appearance date, then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
- h. If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Solicitor's Office on or before the Initial General Sessions Appearance.
- i. Unrepresented defendants may apply for a Public Defender at the Initial General Sessions Appearance. Applications will be taken by the clerk and, if approved, will be assigned that day.
- j. Defendants who remain unrepresented at the Initial General Sessions Appearance must appear at the next term of General Sessions court and remain in Court throughout that term until excused by the Court or the Solicitor's Office. These defendants must appear for each successive term of Court as required by their bond until the disposition of their case.
- k. In all cases where the defendant is represented by the Public Defender the Public Defender shall assess the case at the Initial General Sessions Appearance for possible conflicts on that date. The Clerk shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant as to the identity of their attorney. The newly appointed counsel shall also be notified.
- Issues of competency shall be addressed at the Initial General Sessions Appearance. When appropriate, defense counsel shall move for a competency evaluation, and the State may consent to a competency evaluation of the subject defendant at the Initial General Sessions Appearance. In the alternative, the State and defense may schedule a hearing to determine if a competency evaluation is necessary.
- m. In all cases where it is feasible to do so, at the Initial General Sessions Appearance the defendant and the State shall enter into negotiations concerning pleas and scheduling. All offers tendered at the Initial General Sessions Appearance must be accepted or rejected by Monday of the next term of General Sessions's court.
- n. In order to be prepared to respond to the State's plea offer in a timely manner, all defense attorneys shall meet in person with their clients prior to the Initial General

Sessions Appearance, if at all possible, for the purpose of discussing the State's plea offer and all other matters relating to the defendant's case. If they are unable to meet prior to the Initial General Sessions Appearance a meeting shall be set at the Initial General Sessions Appearance and scheduled within a week to timely respond to the State's plea offer.

o. Prior to the Initial General Sessions Appearance, the case will be assigned a final disposition date approximately one hundred twenty (120) days from the date of the Initial General Sessions Appearance. Should the disposition date fall on a non-court week, it will be extended until the end of the next term of court. The disposition date will be calculated from the Initial General Sessions Appearance date. It is the objective of all parties to have every case concluded on or before its assigned disposition date. All cases involving loss of life (murder, voluntary manslaughter, felony DUI, etc.) are not assigned a final disposition date and will not be used to calculate Cooperative Case Management case disposition statistics. The Solicitor shall maintain a record of such designated cases to monitor them and provide information regarding them to the Chief Administrative Judge. Cases with complicated forensic, mental health or other compelling issues may be designated complex by the Solicitor, and be put in the exempt track. These cases will not be assigned a final disposition date and will not be used to calculate Solicitor, and be put in the exempt track. These cases will not be assigned a final disposition date and will not be used to calculate Cooperative Case disposition statistics.

#### IV. INDICTMENTS

- a. All General Sessions cases to be presented for indictment shall be presented to the Bamberg County Grand Jury within ninety (90) days of the case being transmitted by the Clerk of Court to the Solicitor's Office and in accordance with the *South Carolina Rules of Criminal Procedure.* This Court recognizes that due to the nature or type, certain cases may not be prepared to go to the Grand Jury within ninety days and grants an extension in those instances.
- b. In accordance with South Carolina law, no preliminary hearings will be held on indicted cases.

#### V. REFER FOR ADDITIONAL INVESTIGATION

- a. If the assigned prosecutor determines, within ninety (90) days of the date of arrest, that insufficient evidence exists to present a case to the Grand Jury, he or she may refer the warrant(s) back to the investigating agency for further investigation.
- b. Upon referral, the assigned prosecutor shall provide written notification to the victim(s) if applicable, and the investigating agency of the change in status of the warrant. The investigating agency shall have ninety (90) days from the date of referral to conduct such additional investigation as requested and as it deems appropriate and shall present any additional evidence to the assigned prosecutor for consideration.
- c. Upon providing notice of referral for further investigation, the Solicitor's Office

shall remove the warrant(s) from the assigned prosecutor's pending case list and shall classify them separately as "referred for further investigation".

- d. Once the investigating agency has concluded its additional investigation, it shall present its evidence to the assigned prosecutor, whom will then determine if sufficient evidence exists to present the case to the Grand Jury or otherwise advance the prosecution.
- e. Should the investigating agency fail to present sufficient evidence to the assigned prosecutor within ninety days, then the Solicitor's Office shall administratively dismiss the warrant(s) without prejudice and shall notify the victim(s) if applicable, and the investigating agency
- f. Should the assigned prosecutor determine that sufficient evidence exists to advance the prosecution of the case, it shall restore the warrant(s) back to the his or her pending case list so that he or she may take the steps necessary to move the case toward disposition. The assigned prosecutor may request that a referred warrant be restored at any time prior to the warrant's administrative dismissal deadline.
- g. Nothing in this section shall be construed as limiting the state's authority to directly present criminal cases to the Grand Jury for indictment.

#### VI. GENERAL SESSION, ROLL CALL AND STATUS CONFERENCE

- a. The Docket Appearance hearing will be held along with general roll call at the Barnwell County Courthouse on the designated Mondays at 9:00 am of scheduled terms of General Sessions Court. General roll call will include those defendants whose cases have been directly presented to the Grand Jury and/or whose docket appearance dates have passed without the disposition of their cases. The general roll call docket will be prepared by the Solicitor's Office and posted as set forth above. Defendants and defense counsel are required to appear for Docket Appearance and general roll call and must remain until excused by the Court or a representative of the Solicitor's Office. The Clerk is authorized to issue bench warrants for those defendants who fail to appear for Docket Appearance or general roll call and also for those defendants that fail to remain until excused from Docket Appearance or general roll call. Attorneys for the state and defense that fail to appear are subject to being held in contempt.
- b. All the parties shall, during this appearance, engage in final plea negotiations. In those cases where a plea agreement or other disposition is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and/or schedule the plea as needed to dispose of the case.
- c. Plea Offers shall expire at the end of the business day on the Docket Appearance date and in general will not be extended unless the defendant can demonstrate a material change in circumstances or some other exceptional situation.
- d. The presiding General Sessions Court Judge will hold Status Conferences for cases that remain unresolved on the Monday of the Docket Appearance hearing or at such other convenient time for the purpose of assisting the parties in resolving cases.
- e. Defendants who remain unrepresented on their Docket Appearance must be

present in Court throughout the following term. These defendants must appear for each successive term of Court as required by their bond until their case is disposed.

# VII. GENERAL SESSIONS COURT PACKAGE

- a. A proposed trial roster shall be prepared fourteen (14) days prior to the terms of court by the Solicitor's Office and provided to the Public Defender for Barnwell County, all private defense lawyers representing Defendants on the proposed trial roster, and the Chief Administrative Judge for General Sessions Court.
- b. In addition to the trial roster referred to above, a roll call roster shall be prepared for each term of General Sessions Court. Both the proposed trial roster and the roll call roster shall be prepared and published at least fourteen (14) business days prior to the term of Court and will be posted in the Courthouse, provided to the Chief Public Defender for Barnwell County, and to the Chief Administrative Judge for General Sessions Court.
- c. All motions for continuance and requests for orders of protection shall be served upon the Chief Administrative Judge for General Sessions Court or his designee and the Solicitor's Office no later than seven (7) days prior to the commencement of the court term The Court will endeavor to hear and rule on the motions for continuance and requests for orders of protection before the commencement of the term of court.
- d. During a term of General Sessions Court all assigned solicitors and public defenders shall be present in the designated courtrooms no later than 9:00 am for the morning session of court and 1:30 pm for the afternoon session of court, unless otherwise directed by the presiding Judge.

Nothing in this order shall be construed by this Court or any other Court as reason as a reason for a case to be judicially dismissed. This order is intended to be strictly administrative in nature.

IT IS SO ORDERED.

The Honorable Doyet A. Early III Chief Administrative Judge Second Judicial Circuit

Japuary \_\_\_\_\_,2008

Included in SCCPC's August 15, 2018 letter to the House Oversight Committee

THE STATE OF SOUTH CAROLINA )	IN THE COURT OF GENERAL SESSIONS
COUNTY OF BARNWELL )	SECOND JUDICIAL CIRCUIT
THE STATE OF SOUTH CAROLINA )	
	)
VS.	) NOTICE OF DATE AND TIME
	) OF
	) MANDATORY COURT INITIAL APPEARANCE
Defendant	
Warrant Number(s):	
<b>**THIS IS THE ONL</b>	Y NOTICE YOU WILL RECEIVE**
KEEP A CO	PY FOR YOUR RECORDS

You are a Defendant in a Criminal Case. You are required to appear at:

The Barnwell County Courthouse, 141 Main Street, Barnwell, South Carolina 29812 The dates and times of these appearances CANNOT be changed for any reason.

Your INITIAL APPEARANCE is set for the day of

, 20 at 1:00 a.m. in the Main Courtroom.

#### FAILURE TO APPEAR WILL RESULT IN YOUR ARREST

You MUST be present at this appearance. If you FAIL TO APPEAR on this date and time, a Bench Warrant will be issued for your arrest; you will be placed in jail and may be held until the trial of your case.

- □ I waive any right to the services of a Public Defender. I understand that I must either hire a private attorney or represent myself.
- You have not qualified for a Public Defender. You must either hire a private attorney or represent yourself.
- You have qualified for a Public Defender. You will go to the Clerk of Court's Office at 141 Main Street (inside the courthouse. There is a State mandated application fee of \$40.00 you must pay at that time. You must take copies of Warrants with you or you cannot be processed. Failure to do so may result in your bond being revoked.

#### FAILURE TO OBTAIN AN ATTORNEY MAY RESULT IN YOUR BOND BEING REVOKED, BEING HELD IN CONTEMPT OF COURT, FINES, AND/OR JAIL.

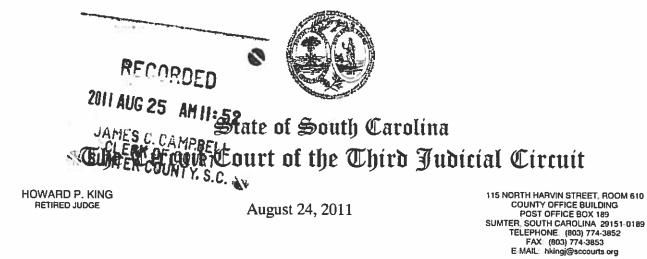
I HAVE READ THIS FORM OR HAVE HAD IT READ TO ME. I UNDERSTAND THESE INSTRUCTIONS, AND I HAVE BEEN GIVEN A COPY TO KEEP.

Defendant's Signature

Judge's Signature

Date

Date



TO: Third Circuit Solicitors, Public Defenders, Clerks of Court and Law Enforcement Agencies

FROM: Howard P. King, Administrative Judge (GS), Third Judicial Circuit

SUBJECT: Differentiated Case Management, Court of General Sessions

In December 2007 a differentiated case management system was implemented for processing cases in the Court of General Sessions on all cases in which the arrest was made after January 1, 2008. This system was implemented by an Administrative Order for each county issued by the Circuit Court and approved and adopted by the Supreme Court and filed in the office of the Clerk of Court in each of the four counties. In furtherance of these Orders the Court held an informational meeting in early 2008 to explain and answer questions regarding implementation of Differentiated Case Management (DCM).

It is now clear that while some minor compliance has been attempted, the DCM system specified in the Administrative Orders is not being followed. Sufficient time has elapsed for all agencies affected by the Orders to be thoroughly familiar with the requirements and to have fully implemented and complied, including the integration of the Spartan software program.

The Court is going to conduct another informational meeting on November 22, 2011, at 2:30 P.M. in the O.V. Player (main) Courtroom of the Sumter County Courthouse for the purpose of explaining the requirements of the DCM Orders and to answer questions. The Court will also accept suggestions regarding amendments to the Orders that would improve the process.

This meeting is mandatory for the following personnel:

- 1. Solicitor and Assistant Solicitors;
- 2. Public Defender and Assistant Public Defenders;
- 3. A representative of each law enforcement agency who will be responsible for that agency's compliance.

4. Deputy Clerk of Court for each county who is responsible for General Sessions matters. Members of the criminal defense bar will be required to comply with DCM orders and are encouraged to attend.

Everyone should obtain a copy of and read and be familiar with the DCM Order before the meeting.

AUG 2 5 2011

# STATE OF SOUTH CAROLINA )

COUNTY OF SUMTER

# THIRD JUDICIAL CIRCUIT GENERAL SESSIONS COURT

# ADMINISTRATIVE ORDER

This Court orders that all General Sessions cases in which an arrest is made after January 1, 2008 will be processed through the Court under the principles of a case management system. In accordance with the requirements of this system the following rules are adopted.

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- I. <u>Bond Hearing</u>
  - Magistrates and Municipal Judges are required to transmit warrants to the Clerk of Court within fifteen (15) days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.
  - B. All defendants will be advised in writing that he/she must, within fifteen (15) days of arrest date, apply to the Clerk of Court and pay the \$40.00 application fee for the appointment of a Public Defender, unless private counsel has been retained. This is a condition of the defendant's bond and will be noted on the bond form. Failure to comply may result in revocation of the bond. If the defendant has not made bond and is still incarcerated after fifteen (15) days, the Magistrate will appoint the Public Defender. A copy of the order of appointment will be given to the defendant, and a copy sent to the Public Defender, the Solicitor, and the Clerk of Court.
  - C. At the bond hearing the defendant will be served with a notice of the General Sessions initial appearance by providing him/her with a copy of the bond form. The date of the initial appearance and the term of court will be assigned in accordance with the schedule prepared by the Solicitor's Office. The date, time and place of the initial appearance and the term of court will be noted on the bond form and initialed by the defendant. Attendance of the defendant at the initial appearance, unless waived in writing on Form A attached, is a condition of bond as are any other conditions required by law or noted as special conditions on the bond form.
  - D. When a defendant makes bond, all Magistrate and Municipal Judges are required to transmit all original bond forms and bond paperwork within ten (10) days to the Clerk of Court. The Clerk of Court is then required to forward copies of the bond forms

within ten (10) days to the office of the Solicitor, including but not limited to bond forms and powers of attorney.

E. All defendants will be advised orally and in writing of their right to a preliminary hearing in accordance with Rule 2(a) of South Carolina Rules of Criminal Procedure. Dates for preliminary hearings will be scheduled in accordance with Rule 2(b) of the South Carolina Rules of Criminal Procedure.

# II. Initial Appearance

- A. Initial appearance will be held at the County Courthouse as set by the Solicitor. Roll call will be conducted as is necessary to ensure attendance. Any defendant who has applied for and been approved for Pretrial Intervention is excused from the initial appearance.
- B. A bench warrant may be issued for any defendant who does not appear for his/her initial appearance.
- C. The following issues will be addressed at the Initial Appearance:
  - 1. If a defendant qualifies for Court appointed counsel and has not retained private counsel by the initial appearance date, the public defender or appointed lawyer will continue to represent the defendant.
  - 2. If a defendant qualifies for a Public Defender but has retained private counsel prior to the initial appearance date, that attorney must file a notice of representation with the Clerk of Court and serve a copy on the Solicitor's office and on the public defender's office. At that time, the public defender will be relieved of representation.
  - 3. If a defendant did not qualify for a public defender and private counsel has been retained, then a letter of representation must be filed with the Clerk of Court and served on the Solicitor's Office.
  - 4. Defendants who remain unrepresented at the initial appearance must appear at their docket appearance date and remain in court until their case is disposed. These defendants must also appear for each successive term of court as required by their bond unless otherwise ordered by the Court.
  - 5. Any mental health issues.

- 6. Any issues related to the analysis of drugs or other types of evidence.
- 7. Any other issue that may affect the timing of the disposition of the criminal case.
- D. All law enforcement agencies are required to forward incident reports along with written statements and NCIC reports or driving records to the Solicitor's office within fifteen (15) days after arrest. Additionally, all law enforcement agencies must transmit all materials to which SCR Crim P Rule 5 apply, and all Brady materials to the Solicitor within fifteen (15) days after arrest. Video and audio tapes, or copies of them must also be sent. Materials subsequently received will be sent within fifteen (15) days after receipt.
- E. The Solicitor's office and the defense counsel will exchange their respective discovery information at or prior to the initial appearance, provided the proper motions are filed with the Clerk of Court and served upon opposing parties. In any event, discovery information will be furnished within fifteen (15) days after the initial appearance or as provided by Rule 5, SCR Crim P (which ever period is shorter).
- F. The Solicitor will prepare and present all indictments to the Grand Jury as provided in Rule 3, SCR Crim P.
- G. In all cases where it is feasible to do so, the defendant and the State will enter into negotiations concerning guilty pleas at or before the initial appearance. If a plea offer cannot be made at the initial appearance, it must be made within fifteen (15) days thereafter. Any offers must be in writing and must be accepted or rejected by the docket appearance, which will be not less than seventy-five (75) days after the initial appearance. Offers not accepted may be withdrawn.
- H. If the plea negotiations are unsuccessful by the docket appearance, the case will be scheduled for trial according to one of two dispositional tracks. The tracks are 180, 270 and 365 days. The length of the track in which a case is placed determines the disposition date of the case. The disposition date is calculated from the initial appearance date. If the disposition date falls in a non-court week, it will be extended until the next term of General Sessions Court.
- I. Assignment of cases to a track will be the responsibility of the Solicitor's office and done at the sole discretion of the Solicitor's office.

- J. The 365 day track are cases which are Class A and B felonies along with lesser charges associated with the defendant.
- K. The 270 day tract are Class C, D, and E felonies, along with any lesser charges associated with the defendant and are not associated with a greater charge on the 365 day tract.
- L. The 180 day track are Class F felonies and all misdemeanors provided these cases are not associated with a greater charge on the 270 or 365 day track.
- M. The following cases are exempt from either tracking system:
  - (1) Homicide cases:
  - (2) Criminal sexual conduct cases;
- III. General Sessions Court Practice
  - A. At least seven (7) days before each term of court, the Solicitor shall prepare and publish a docket of all cases that are subject to call during the term of court. Making the docket available in the Solicitor's office shall effect publication. The Solicitor's office will also distribute the docket to all attorneys who have cases on the docket either by fax, U.S. mail, e-mail transmission, or hand delivery. It is the responsibility of all attorneys who have clients on this docket to notify their clients that their case is scheduled for disposition. Scheduling cases for ultimate disposition in accordance with this Order is in the discretion of the Solicitor.
  - B. Status conferences for cases that have not yet been settled or set for trial may be held during the terms of General Sessions Court and can be requested by either the Solicitor's office or defense counsel.
  - C. Nothing in this Order shall be construed by this court or any other court as a reason for a case to be judicially dismissed. This Order is intended to be strictly administrative in nature.

# AND IT IS SO ORDERED.

CLIFTON/NEWMAN

CLIF LON(NEWMAN Chief Administrative Judge (July 1, 2007 – December 31, 2007) Third Judicial Circuit

GEORGE C, MARES, JR.

Resident Judge and Chief Administrative Judge (January 1, 2008 - June 30, 2008) Third Judicial Circuit

HOWARD P. KING

Chief Administrative Judge (July 1/2008 December 31, 2008) Third Judicial Circuit

R. FERRELL COTHRAN, JR. Resident Judge Third Judicial Circuit

South Carolina 20.2007

FORM	"A"
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INITIAL APPEARANCE ATTENDANCE WAIVER
Charge(s)
Initial Appearance Scheduled for
Assigned Solicitor:
Retained Counsel/Public Defender:
Track Assigned: 180/270/365
Discovery Provided? Yes/No Complete/Incomplete
Drug Analysis Provided? Yes/No
Plea Offer Made? Yes/No
Special Issues/Motions Filed:
Defendant notified of 2 <sup>nd</sup> Appearance Scheduled for,
Signature of Solicitor
We agree that the above information is accurate and certify that attendance at initial Appearance is unnecessary. The Defendant and Defense Counsel waive the right to Appear at the Initial Appearance and agree and understand that a failure to appear at the 2 <sup>nd</sup> Appearance or any other scheduled court date may subject the defendant to a contempt citation, bench warrant and incarceration. The Defendant understands that no other notice will be given of the 2 <sup>nd</sup> Appearance date.
Defendant

Date:\_\_\_\_\_

Counsel for Defendant

# SECOND AMENDED ORDER

STATE OF SOUTH CAROLINA

**COUNTY OF CHESTERFIELD** 

# IN THE COURT OF GENERAL SESSIONS FOURTH JUDICIAL CIRCUIT

# COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the Previous Administrative Order issued by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Cooperative Case Management Administrative Order is hereby adopted by this Court for the County of Chesterfield General Sessions Court.

This Court hereby declares and orders that all General Sessions cases arising after November 12, 2007, will be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system, the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of this County, the following shall be done:

I. ARREST WARRANTS & CDR CODES

A. Warrants shall be filled out completely and correctly. The section contained in the upper left hand corner that identifies the Defendant shall be completed at the time the warrant is obtained from the Magistrate or Municipal Judge. This information includes, but is not limited to, the Defendant's physical address, Social Security Number, date of birth, sex, race, height, and weight.

B. Each citizen's warrant shall be accompanied by a complete incident report from law enforcement. This incident report shall be presented to the Magistrate or Municipal Judge prior to the issuance of the warrant. Said incident report shall be attached to the warrant and transmitted to the Clerk of Court. The Clerk of Court shall transmit the warrant and incident report to the Solicitor's Office.

C. An initial incident report must be prepared on every case, attached to each warrant, and transmitted to the Clerk of Court. The Clerk shall transmit the warrant and incident report to the Solicitor's Office.

D. Each criminal charge has been assigned a CDR Code by Court Administration, and each Code has been provided to the Magistrates and Municipal Judges. Each warrant shall reflect the current CDR Code number from Court Administration on the face of the warrant in the space provided.

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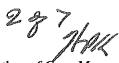
Included in SCCPC's August 15, 2018 letter to the House Oversight Committee

E. The Victim's Information Form shall contain the "mailing" as well as the "physical" address of each victim.

F. The Solicitor may return a warrant to the appropriate law enforcement agency for further investigation. Upon return the State shall notify the Clerk of Court of all returned warrants, and such cases shall be removed from the State's pending case list and classified separately, until the investigation is complete and the case is accepted for prosecution by the Solicitor's Office. Any warrant not returned to the Solicitor's Office and accepted for prosecution within ninety (90) days from the date of the Return shall be administratively dismissed without prejudice by the Clerk of Court. The Solicitor's Office must notify the Clerk of Court of a complete investigation and acceptance of prosecution.

#### II. BOND HEARING

- A. The on call prosecutor from the Solicitor's Office shall attend General Sessions Court bond hearings held at the Chesterfield County Detention Center IF REQUESTED.
- B. In addition to their statutory duties, the victim/witness advocates on duty at the Chesterfield County Detention Center shall, prior to bond court, provide to the prosecutor on call a packet for each General Sessions case consisting of the incident report, warrant/ticket, and defendant's criminal history. This applies in cases where a prosecutor has been requested to attend a bond hearing.
- C. Prior to bond court, the prosecutor on call, if presence is requested at the bond hearing, shall review all appropriate General Sessions cases and make an initial review regarding disposition. As justice dictates, the Solicitor may remand or dismiss the case at the bond hearing. On all other General Sessions charges, the Solicitor shall be prepared to make a recommendation to the presiding Magistrate or Municipal Judge regarding the bond amount, if his/her presence is required at the said hearing.
- D. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances (see attached) at the time of the bond hearing. The defendant's attendance at the Initial Appearance and Docket Appearance shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. The dates of the Initial Appearance and the Docket Appearance shall be assigned in accordance with the schedule prepared and supplied by the Solicitor's Office. Copies of all notices shall be transmitted to the Solicitor's Office. This may be accomplished by U.S. mail at the end of the week.
- E. At the conclusion of their bond hearings, all General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Such screening will be done in a manner as prescribed by Court Administration. Should the Court determine that the defendant qualifies for



court appointed counsel, the Judge shall assign the Chesterfield County Public Defender's Office to represent the defendant by completing the appropriate box on the Notice of Date and Time of Mandatory Court Appearances form. The Court shall not accept the application fee from any defendant, but must advise the Defendant that, as a condition of his/her bond, he/she must pay the \$40.00 application fee to the Clerk of Court within 15 days of his/her release on bond. Additionally, the Defendant shall be advised that if the fee is not paid by the Initial (first) Appearance date, the bond may be revoked by the presiding General Sessions Judge at the next term of court. If the magistrate or municipal judge finds that the Defendant does not qualify for appointed counsel, the appropriate box on the Notice of Date and Time of Mandatory Court Appearances form shall be completed. In either case, the original copy of the form and the original Application for Counsel shall be forwarded to the Clerk of Court. At any insuing term of General Sessions Court, the Clerk of Court shall advise the presiding judge of any Defendant released on bond for whom counsel has been appointed but who has not paid the application fee. The presiding judge may revoke the bond and require that the Defendant be held pending disposition of the charge(s). The Clerk of Court shall notify the Public Defender of appointments by mailing a copy of the Notice of Mandatory Court Appearances.

F. Magistrates and Municipal Judges shall transmit warrants, notices of Mandatory Court Appearances, and bonds to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.

#### III. DISCOVERY

- A. All law enforcement agencies shall provide copies of General Sessions case reports, together with all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case file, to the Solicitor's Office within thirty (30) days of the arrest of the defendant. If the case file remains incomplete thirty days after the arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items for which law enforcement is waiting.
- B. The Solicitor's Office shall prepare defense discovery packets on all General Sessions cases within forty-five (45) days of arrest. The defense discovery packets shall be provided within forty-five (45) days of arrest to all attorneys who have filed a general letter of representation along with the appropriate discovery requests with the Solicitor's office.
- C. The Solicitor's Office shall prepare a written plea offer for all General Sessions cases within forty-five (45) days of arrest to all attorneys that have filed a general letter of representation with the Solicitor's Office.

IV. INITIAL APPEARANCE



- A. The Initial Appearance will be held in the Courtroom of the Chesterfield County Courthouse Wednesday at 9:00 am as set forth in the schedule prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk is authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge for General Sessions Court.
- B. There shall be no continuances of Initial Appearances. All defense attorneys and their client defendants must appear at the Initial Appearance.
- C. Defendants and/or their attorneys may be excused from Initial Appearance hearings, in writing, by the Solicitor's Office if all matters to be addressed during the Initial Appearance have been addressed by the prosecution and defense prior to the hearing.
- D. The issue of legal representation shall be addressed at the Initial Appearance.

1. If a defendant qualifies for a Public Defender, but has retained private counsel prior to the Initial Appearance date, then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.

2. If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Solicitor's Office on or before the Initial Appearance date.

3. Defendants who remain unrepresented at the Initial Appearance must appear for their Docket Appearance and remain in Court throughout the next court term until excused by the Court or the Solicitor's Office. These defendants must appear for each successive term of Court as required by their bond until their cases are disposed.

4. In all cases where the defendant is represented by the Public Defender, the Public Defender shall assess the case for possible conflicts of interest and, if necessary, shall file an Affidavit of Conflict with the Clerk of Court prior to the Initial Appearance. The Clerk shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list prior to the Initial Appearance and advise the defendant as to the identity of his or her attorney. The newly appointed counsel shall also be notified.

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- E. Issues of competency shall be addressed at the Initial Appearance. When appropriate, defense counsel shall move for a competency evaluation, and the state may consent to a competency evaluation of the subject defendant at the Initial Appearance. In the alternative, the State and defense may schedule a hearing to determine if a competency evaluation is necessary.
- F. In all cases where it is feasible to do so, at Initial Appearance the defendant and the State shall enter into negotiations concerning pleas and scheduling. All offers tendered at the Initial Appearance must be accepted or rejected by the defendant's Docket Appearance date.
- G. In order to be prepared to respond to the State's plea offer in a timely manner, all Public Defenders and conflict Court-appointed counsel shall meet in person with their clients prior to the Docket Appearance for the purpose of discussing the State's plea offer and all other matters relating to the defendant's case. It is suggested that the Public Defender use the Initial Appearance to schedule appointments for this purpose.
- H. Prior to the Initial Appearance, the case will be assigned to disposition date in one of three dispositional tracks. These tracks will be 180, 270, and 365 days. Assignment of cases to tracks is the responsibility of the Solicitor's Office and is done at the sole discretion of the Solicitor. It is the objective of all parties to have every case concluded on or before its disposition date. Should the disposition date fall on a non-court week, it will be extended until the end of the next term of court. Homicide, criminal sexual conduct cases, and such other cases deemed by the Solicitor to be especially timeconsuming are an exception to this system and will not be assigned a disposition date. The disposition date is calculated from the Initial Appearance date.

# V. INDICTMENTS

- A. All General Sessions cases to be presented for indictment shall be presented to the Chesterfield County Grand Jury within ninety (90) days in accordance with Rule 3 of the South Carolina Rules of Criminal Procedure. This Court recognizes that due to their nature or type, certain cases may not be prepared to go to the Grand Jury within ninety days and grants an extension in those instances.
- B. In accordance with South Carolina law, no preliminary hearings will be held on indicted cases.
- VI. DOCKET APPEARANCE



A. The Docket Appearance will be held in the Courtroom of the Chesterfield County Courthouse on Wednesday at 2:00 pm as set forth in the schedule prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk is authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge of General Sessions Court.

B. All parties shall, during this appearance, engage in final plea negotiations. In those cases where a plea agreement is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and schedule the plea.

- C. Plea offers shall expire at the end of the business day on the Docket Appearance date and will not be extended unless the defendant can demonstrate a material change in circumstances or some other exceptional situation.
- D. The presiding General Sessions Court Judge will hold Docket Appearance status conferences on cases that remain unresolved during the next General Sessions Court week following the Docket Appearance to assist the parties in resolving their cases, to allow the State to withdraw its plea offer, to address attorney issues, advise of the possibility of waiver of counsel, and advise of trial "in absentia". Status conferences may be used to assist the parties in reaching agreements.
- E. Defendants who remain unrepresented on their Docket Appearance date must be present in Court throughout the following term. These defendants must appear for each successive term of Court as required by their bond until their case is disposed.
- F. All defense attorneys and their client Defendants must appear at the Docket Appearance unless excused, in writing, by the Chief Administrative Judge of General Sessions Court.

#### VII. GENERAL SESSIONS COURT PRACTICE

A. A trial roster and roll call roster shall be prepared for each term of General Sessions Court. For consecutive terms, the rosters may cover two terms of court. The rosters shall be prepared and published at least seven (7) business days prior to the term of Court by posting in the Courthouse, provided to the Chief Public Defender for Chesterfield County, to other counsel of record, and to the Chief Administrative Judge for General Sessions Court.

B. The Solicitor's Office shall set the order of trials.

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C. All motions for continuance and requests for orders of protection shall be submitted to the presiding Judge and Solicitor's Office no later than seven (7) days prior to the commencement of the Court term. The Court will endeavor to hear and rule on the motions for continuance and requests for orders of protection before the commencement of the term of Court.

D. During a term of General Sessions Court, all assigned Solicitors and Public Defenders shall be present in the designated courtroom no later than 9:00 am for the morning session of court and 1:30 pm for the afternoon session of court, unless excused by the presiding Judge.

E. Nothing in this order shall be construed by this Court or any other Court as a reason for a case to be judicially dismissed. This order is intended to be strictly administrative in nature.

#### **IT IS SO ORDERED.**

Honorable Howard P. King Chief Administrative Judge Fourth Judicial Circuit

At <u>Somplex</u> November 14, 2007. \_\_\_\_ , SC

COUNTY, S

Included in SCCPC's August 15, 2018 letter to the House Oversight Committee

2) · · · ·	
STATE OF SOUTH CAROLINA	) IN THE COURT OF GENERAL SESSIONS FOURTH JUDICIAL CIRCUIT
COUNTY OF DARLINGTON	)
· · · · · ·	AMENDMENT TO COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER DATED 18 APRIL 2007

The Cooperative Case Management Administrative Order has been in effect since 1 June 2007. The following are amendments to that Order:

1. Effective October 1, 2007, the Darlington County Public Defender shall collect the \$40.00 application fee ordered by the court and owed by the defendant.

2. If a defendant does not appear for each of his or her Docket Appearances, a bench warrant shall be issued, unless the appearance was waived by the solicitor.

3. The Clerk of Court shall meet with defendants who are in jail on a bench warrant and whose arrest date was prior to 1 June 2007 to screen them for attorney representation. Also, the Clerk shall follow up with any defendant who did not qualify for a public defender at the bond hearing, but has been incarcerated for fifteen (15) days or longer and is not represented by Counsel to screen them for attorney representation.

4. Summary Court Judges shall screen and appoint attorneys for the violations of probation and attach the screening form to a copy of the warrant and transmit both to the Clerk of Court. Judges shall indicate at the top of the screening form that the charge(s) are violations of probation.

AND IT IS SO ORDERED!

Howard P. King, Chief Administrative Judge for the Fourth Judicial Circuit

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Revised: 1 October 2007

Page 1

**46** 

# STATE OF SOUTH CAROLINA COUNTY OF DARLINGTON

# IN THE COURT OF GENERAL SESSIONS FOURTH JUDICIAL CIRCUIT

# COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the attached Administrative Order issued by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Cooperative Case Management Administrative Order is hereby adopted by this Court for the General Sessions Court in Darlington County.

This Court hereby declares and orders that all General Sessions cases arising after June 1, 2007, shall be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system, the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of this County, the following shall be done:

# I. ARREST WARRANTS & CDR CODES

- A. Warrants shall be filled out completely and correctly. The section in the upper left hand corner that identifies the defendant shall be completed at the time the warrant is obtained from the Magistrate or Municipal Judge. This information includes, but is not limited to, defendant's physical address, social security number, date of birth, sex, race, height, weight and any other information that is applicable. This information shall be added to the original warrant at the bond hearing should the information be unavailable at the time of the issuance of the warrant. Incomplete warrants will be returned by the Solicitor's office to the issuing agency.
- B. Each citizen's warrant shall be accompanied by a complete incident report from law enforcement. This incident report shall be presented to the Magistrate or Municipal Judge prior to the issuance of the warrant. Said incident report shall be attached to the warrant and transmitted to the Clerk of Court's office. The Clerk of Court shall transmit the warrant and the incident report to the Solicitor's office.

C. The initial incident report shall be attached to each warrant and transmitted TRUE City the Clerk's office. The Clerk shall fraismothe warrant and the incident reported to Solicitor's office. 89:6 WV E- XVN LOOZ

Revised: 12 April 2005

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

Page 1

- D. Each charge has a CDR offense code assigned by the South Carolina Court Administration and provided to the Magistrate and the Municipal Judge. Each warrant shall reflect the current code number from Court Administration on the face of the warrant in the space provided.
- E. The Victim's Information Form shall contain the "mailing" as well as the "physical" address of each victim. In addition, the Victim Information Form shall contain contact telephone number(s) to reach the victim.

#### II. BOND HEARING

- A. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances (see attached – Form 1) at the time of the bond hearing. The defendant's attendance at the Initial Appearance and Docket Appearance shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. The dates of the Initial Appearance and the Docket Appearance shall be assigned in accordance with the schedule prepared and supplied by the Solicitor's Office. Copies of all notices shall be transmitted to the Solicitor's Office, Public Defender's office, and the Clerk of Court's office via fax or hand delivery, at the conclusion of each work week.
- B. The bond paperwork shall be properly completed by the Judge setting the bond, including, but not limited to, the proper Court along with the date and time of appearance, address of defendant, social security number, and the telephone number of the bondsman. Should a defendant have case in General Sessions and any lower court simultaneously, then the bond paperwork shall reflect the appearance for both courts, along with the date and time, on the face of bond.
- C. The following restrictions shall appear on the bond paperwork:
  - 1. The defendant shall not leave the State of South Carolina;
  - 2. The defendant shall appear for the Court date listed;
  - 3. The defendant shall abide by all laws of the State of South Carolina.
  - 4. <u>A further condition of bond is</u>: each defendant will appear at the Clerk of Court's office to pay the \$40 application fee for the Public Defender within 15 days from the date of release.
  - 5. Such "other conditions" shall appear on the bond in appropriate cases.

Revised: 12 April 2007

- The Magistrate or Municipal Judge shall t include conditions restraining the defendant from having contact, directly or indirectly, with the victim, the victim's family or any other such person.
- D. If a defendant is given a personal recognizance bond, there must be at least two (2) contact working telephone numbers and one (1) alternate address of the nearest relative listed on the bond paperwork.
- E. During the course of the bond hearing, the Magistrate or Municipal Judge shall inform the defendant, in writing and orally, of his or her right to a Preliminary Hearing. Should a hearing be desired, it shall be scheduled at that time by the court in accordance with current practice.
- F. At the conclusion of their bond hearings, all General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Such screening will be done in a manner as prescribed by Court Administration. Should the Magistrate's Court or Municipal Court determine that the defendant qualifies for court appointed counsel, the Judge shall appoint the Darlington County Public Defender's Office to represent the defendant. The Magistrate's Court or the Municipal Court shall not accept the application fee from any defendant, but shall advise defendants that as a condition of the bond they shall pay the Clerk of Clerk within fifteen (15) days from the date of release. Any fees not paid at the time of the General Sessions court appearance may be addressed by the presiding General Sessions Judge.
- G. The Magistrates and Municipal Judges shall maintain a record of defendants who qualify for court-appointed counsel and shall notify the Clerk of Court's office, the Public Defender's Office and the Solicitor's Office in writing, via fax or hand delivery, of such appointment at the conclusion of each work week.
- H. Magistrates and Municipal Judges shall transmit warrants, indigent screening forms, notices of Mandatory Court Appearances, incident reports, and bond paperwork to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.

#### III. DISCOVERY

A. All law enforcement agencies shall provide copies of General Sessions case reports, together with all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case filewith the Solicitor's Office within twenty (20) days of the arrest of the defendant. If the case file remains incomplete twenty (20) days after the arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with an

Revised: 12 April 2007

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Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

Additional State's Discovery form (see attached – Form 2) listing of those items for which law enforcement is waiting.

- B. All case files shall have a cover sheet on the front of the file. This form shall be provided by the Solicitor's office. (see attached Form 3) This form shall include, but is not limited to, the name of the defendant and any co-defendants, the charges pending, the victim(s) names and telephone number(s), mailing and physical address of victim, names, addresses and telephone numbers of any witness and a summary of the case. The summary shall include, but is not limited to, what occurred in the incident, how law enforcement came to arrest the defendant(s), the culpability of each defendant involved, i.e. who cooperated and who did not, and any recommendation from law enforcement as to punishment, in order to promote efficiency.
- C. The Solicitor's office may return any General Sessions warrant to the investigating agency for further investigation within ninety (90) days of the date of arrest of the defendant. (See attached Form 4). Upon return, the Solicitor's office shall notify the Clerk of Court for Darlington County of all returned warrants and such cases shall be removed from the State's pending case list and classified separately, until the. investigation is complete and the case is accepted for prosecution by the Solicitor's office. The Solicitor's office, via fax, shall notify the arresting agency of any returned warrants. All returned warrants will be transmitted to the Darlington County Clerk of Court via a Warrant Return Form, provided by the Solicitor's office. Upon request of the Solicitor's office, all warrants not accepted for prosecution within ninety (90) days of the date of return shall be administratively dismissed without prejudice by the Clerk of Court for Darlington County. Nothing in this section shall be construed to deprive any victim of the rights granted under Article 1, Section 24 of the South Carolina Constitution. The Solicitor's office must notify the Clerk of Court of a completed investigation and acceptance of prosecution by the Solicitor's office.
- D. The Solicitor's Office shall prepare defense discovery packets for all General Sessions cases within forty-five (45) days of arrest. The defense discovery packets shall be provided to all defense attorneys, or to any *pro-se* defendant, at the Initial Appearance, who have filed a general letter of representation along with the appropriate discovery requests with the Solicitor's office.
- E. The Solicitor's Office shall prepare a written plea offer for all General Sessions cases within forty-five (45) days of the date of arrest and deliver the same to all defense attorneys or to any *pro-se* defendant who

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has filed a general letter of representation, along with the appropriate discovery requests, with the Solicitor's office.

## IV. INITIAL APPEARANCE

- A. The Initial Appearance shall be held in the Courtroom of the Darlington County Courthouse on Wednesday at 9:00 o'clock a.m. as set forth in the schedule prepared and supplied by the Solicitor's Office. However, should the 5<sup>th</sup> floor courtroom be unavailable, then roll call shall be held in the Grand Jury Room on the 5<sup>th</sup> floor. Roll call shall be conducted as necessary to ensure attendance. The Clerk shall, at the request of the Solicitor, issue bench warrants for those defendants who fail to appear or who have not been excused by the Chief Administrative Judge for General Sessions Court.
- B. There shall be no continuances of Initial Appearances except by Order of the Chief Administrative Judge for General Sessions Court. All defense attorneys and defendants must appear at the Initial Appearance.
- C. Defendants may be excused from Initial Appearance hearings, in writing, by the Solicitor's Office, only if all matters to be addressed during the Initial Appearance have been addressed by the prosecution and defense prior to the date of the Initial Appearance.
- D. When available, the presiding Circuit Court Judge may hold status conferences during this appearance to assist the parties in negotiating agreements.
- E. The issue of legal representation shall be addressed at the Initial Appearance.
  - 1. If a defendant qualifies for a Public Defender, but has retained private counsel prior to the Initial Appearance date, then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
  - 2. If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Solicitor's Office on or before the Initial Appearance date.
  - Pro-se defendants who remain unrepresented at the Initial Appearance shall appear for their Docket Appearance and remain

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in Court throughout the next court term until excused by the Court or the Solicitor's Office. These defendants must appear for each term of Darlington County General Sessions Court as required by their bond until their case is disposed.

- 4. In all cases where the defendant is represented by the Public Defender, the Public Defender shall assess the case for possible conflicts of interest and, if necessary, shall file an Affidavit of Conflict with the Clerk of Court prior to the Initial Appearance. The Clerk shall, upon receiving an Order Relieving Counsel, appoint the next attorney from the conflict list and advise the defendant and the Solicitor's office as to the identity of his or her attorney. The newly appointed counsel shall also be notified by the Clerk of Court's office.
- F. Issues of competency shall be addressed at the Initial Appearance. When appropriate, defense counsel shall move for a competency evaluation. The State and defense will schedule a hearing for the next term of General Sessions to determine if a competency evaluation is necessary.
- G. In all cases where it is feasible to do so at the Initial Appearance, the defendant and the State shall enter into negotiations concerning pleas and scheduling. All offers tendered at the Initial Appearance shall be accepted or rejected by the defendant's Docket Appearance date. Defendant and attorneys shall receive a Notice of Mandatory Court Appearances form at the Docket Appearance. (see attached Form-5)
- H. In order to be prepared to respond to the State's plea offer in a timely manner, all Public Defenders and conflict Court-appointed counsel shall meet in person with their clients prior to the Docket Appearance for the purpose of discussing the State's plea offer and all other matters relating to the defendant's case. It is suggested that the Public Defender use the Initial Appearance to schedule appointments for this purpose.
- The Public Defenders, court-appointed counsel, and retained counsel shall meet with their incarcerated defendant(s) at the Darlington County Detention Center prior to each General Sessions term of Court.
- J. At the Initial Appearance, the case shall be assigned to one of three dispositional tracks. These tracks will be 180, 270 and 365 days.
   (see attached Form 5) Assignment of cases to a track is the responsibility of the Solicitor's office, and is done at the sole

Page 6

discretion of the Solicitor's office. It is the objective of all parties to have every case concluded on or before its disposition date. Should the disposition date fall on a non-court week, it shall be extended until the end of the next term of court. Homicide, criminal sexual conduct w/minors, and criminal sexual conduct cases and such other cases deemed by the Solicitor to be especially time consuming are an exception to this system and will not be assigned a disposition date.

K. The length of the track in which a case is placed determines the deadline by which a case must be disposed. The date is calculated from the Initial Appearance date.

# V. INDICTMENTS

- A. All General Sessions cases to be presented for indictment shall be presented to the Darlington County Grand Jury within ninety (90) days in accordance with Rule 3 of the South Carolina Rules of Criminal Procedure. This Court recognizes that due to their nature or type, certain cases may not be prepared to go to the Grand Jury within ninety days and grants an extension in those instances.
- B. In accordance with South Carolina law, no preliminary hearings will be held on indicted cases by the Magistrate's Court or Municipal Court.

# VI. DOCKET APPEARANCE

- A. The Docket Appearance shall be held in the Courtroom of the Darlington County Courthouse on Wednesday at 2:00 o'clock p.m. as set forth in the schedule prepared and supplied by the Solicitor's Office. However, should the 5<sup>th</sup> floor courtroom be unavailable, then roll call shall be held in the Grand Jury Room on the 5<sup>th</sup> floor. Roll call will be conducted as necessary to ensure attendance. At the request of the Solicitor, the Clerk shall issue bench warrants for those defendants who fail to appear and who have not been excused by the Chief Administrative Judge of General Sessions Court.
- B. There shall be no continuance of the Docket Appearance. All defendants and defense attorneys shall appear for the Docket Appearance unless excused by the Chief Administrative Judge of General Sessions Court.

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- C. All parties shall, during this appearance, engage in final plea negotiations. In those cases where a plea agreement is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and schedule the plea.
- D. Plea offers shall expire at the end of the business day on the Docket Appearance date and shall not be extended unless the defendant can demonstrate a material change in circumstances or some other exceptional situation.
- E. The presiding General Sessions Court Judge shall hold Docket Appearance status conferences on cases that remain unresolved at 9:00 o'clock a.m. on the Monday of the next General Sessions Court week following the Docket Appearance to assist the parties in resolving their cases.
- F. Defendants who remain unrepresented on their Docket Appearance date shall be present in Court throughout the following term. These defendants shall appear for each successive term of Court as required by their bond until their case is disposed.
- G. Attorneys for defendants must appear at the Docket Appearance.

# V. GENERAL SESSIONS COURT PRACTICE

- A. A trial roster and roll call roster shall be prepared for each term of General Sessions Court. For consecutive terms, the rosters may cover two terms of court. The rosters shall be prepared and published at least ten (10) business days prior to the term of Court and shall be posted in the Courthouse, provided to the Chief Public Defender for Darlington County, to the Chief Administrative Judge for General Sessions Court and to the attorneys on the trial roster.
  - B. The Solicitor's Office shall set the order of trials.
  - C. The Petit Jury shall not be summoned to report for jury service for the General Sessions Court term before 2:00 p.m. on the first day of each term unless otherwise requested by the Solicitor's office.
  - D. All Motions for Bonds and Bond Reductions shall be made in writing and filed in the Clerk of Court's office and served on the Solicitor's office no later than one (1) week prior to the beginning of the General Sessions court term. Any Motions filed and served during a term of General Sessions court shall be heard the following term unless there is no victim involved.

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- D. All motions for continuance and requests for orders of protection shall be submitted to the presiding Judge and Solicitor's Office no later than seven (7) days prior to the commencement of the Court term. The Court will endeavor to hear and rule on the motions for continuance and requests for orders of protection before the commencement of the term of Court.
- E. Nothing in this order shall be construed by this Court or any other Court as a reason for a case to be judicially dismissed. This Order is intended to be strictly administrative in nature.

Failure to comply with any requirements of this Order may result in a Rule to Show Cause. This Order may be reviewed within 6 months.

# IT IS SO ORDERED!

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Honorable Paul M. Burch Chief Administrative Judge for the Fourth Judicial Circuit Court of General Sessions

South Carolina 2007

Honorable Howard P. King, Inc<del>opili</del>ng Chief Administrative Judge

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# ATTACHMENTS:

- Form 1 Mandatory Court Appearance
- Form 2 Additional Discovery
- Form 3 Discovery Cover Sheet
- Form 4 Return Warrant
- Form 5 Notice of Mandatory Court Appearances
- Form 6 Track Assignment

Revised: 12 April 2007 Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18) Page 9

## SECOND AMENDED ORDER

STATE OF SOUTH CAROLINA COUNTY OF MARLBORO

### IN THE COURT OF GENERAL SESSIONS FOURTH JUDICIAL CIRCUIT

#### COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER

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Pursuant to the authority vested in this Court by the Previous Administrative Order issued by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Cooperative Case Management Administrative Order is hereby adopted by this Court for the County of Marlboro General Sessions Court.

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This Court hereby declares and orders that all General Sessions cases arising after November 12, 2007, will be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system, the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of this County, the following shall be done:

I. ARREST WARRANTS & CDR CODES

A. Warrants shall be filled out completely and correctly. The section contained in the upper left hand corner that identifies the Defendant shall be completed at the time the warrant is obtained from the Magistrate or Municipal Judge. This information includes, but is not limited to, the Defendant's physical address, Social Security Number, date of birth, sex, race, height, and weight.

B. Each citizen's warrant shall be accompanied by a complete incident report from law enforcement. This incident report shall be presented to the Magistrate or Municipal Judge prior to the issuance of the warrant. Said incident report shall be attached to the warrant and transmitted to the Clerk of Court. The Clerk of Court shall transmit the warrant and incident report to the Solicitor's Office.

C. An initial incident report must be prepared on every case, attached to each warrant, and transmitted to the Clerk of Court. The Clerk shall transmit the warrant and incident report to the Solicitor's Office.

D. Each criminal charge has been assigned a CDR Code by Court Administration, and each Code has been provided to the Magistrates and Municipal Judges. Each warrant shall reflect the current CDR Code number from Court Administration on the face of the warrant in the space provided.

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Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

E. The Victim's Information Form shall contain the "mailing" as well as the "physical" address of each victim.

F. The Solicitor may return a warrant to the appropriate law enforcement agency for further investigation. Upon return the State shall notify the Clerk of Court of all returned warrants, and such cases shall be removed from the State's pending case list and classified separately, until the investigation is complete and the case is accepted for prosecution by the Solicitor's Office. Any warrant not returned to the Solicitor's Office and accepted for prosecution within ninety (90) days from the date of the Return shall be administratively dismissed without prejudice by the Clerk of Court. The Solicitor's Office must notify the Clerk of Court of a completed investigation and acceptance of prosecution.

#### II. BOND HEARING

- A. A prosecutor from the Solicitor's Office shall attend General Sessions Court bond hearings conducted by Magistrates or Municipal Court Judges IF REQUESTED.
- B. In addition to their statutory duties, the victim/witness advocates on duty shall, prior to bond court, provide to the prosecutor a packet for each General Sessions case consisting of the incident report, warrant/ticket, and defendant's criminal history. This applies in cases where a prosecutor has been requested to attend a bond hearing.
- C. Prior to bond court, the prosecutor, if presence is requested at the bond hearing, shall review all appropriate General Sessions cases and make an initial review regarding disposition. As justice dictates, the Solicitor may remand or dismiss the case at the bond hearing. On all other General Sessions charges, the Solicitor shall be prepared to make a recommendation to the presiding Magistrate or Municipal Judge regarding the bond amount, if his/her presence is required at the said hearing.
- D. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances at the time of the bond hearing. The defendant's attendance at the Initial Appearance and Docket Appearance shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. The dates of the Initial Appearance and the Docket Appearance shall be assigned in accordancewith the schedule prepared and supplied by the Solicitor's Office. Copies of all notices shall be transmitted to the Solicitor's Office. This may be accomplished by U.S. mail at the end of the week.
- H E. At the conclusion of their bond hearings, all General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for  $\sim$ appointment of counsel. Such screening will be done in a manner as prescribed by Court Administration. Should the Court determine that the defendant qualifies for court appointed counsel, the Judge shall assign the Public Defender's Office to

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represent the defendant by completing the appropriate box on the Notice of Date and Time of Mandatory Court Appearances form. The Court shall not accept the application fee from any defendant, but must advise the Defendant that, as a condition of his/her bond, he/she must pay the \$40.00 application fee to the Public Defender's Office within 15 days of his/her release on bond. Additionally, the Defendant shall be advised that if the fee is not paid by the Initial (first) Appearance date, the bond may be revoked by the presiding General Sessions Judge at the next term of court. If the Magistrate or Municipal Judge finds that the Defendant does not qualify for appointed counsel, the appropriate box on the Notice of Date and Time of Mandatory Court Appearances form shall be completed. In either case, the original copy of the form and the original Application for Counsel shall be forwarded to the Clerk of Court. At any insuing term of General Sessions Court, the Public Defender or Clerk of Court may advise the presiding judge of any Defendant released on bond for whom counsel has been appointed but who has not paid the application fee. The presiding judge may revoke the bond and require that the Defendant be held pending disposition of the charge(s).

The Clerk of Court shall notify the Public Defender of appointments by mailing a copy of the Notice of Mandatory Court Appearances.

F. Magistrates and Municipal Judges shall transmit warrants, notices of Mandatory Court Appearances, and bonds to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.

#### III. DISCOVERY

A. All law enforcement agencies shall provide copies of General Sessions case reports, together with all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case file, to the Solicitor's Office within thirty (30) days of the arrest of the defendant. If the case file remains incomplete thirty days after the arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items for which law enforcement is waiting.

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- B. The Solicitor's Office shall prepare defense discovery packets on all General Sessions cases within forty-five (45) days of arrest. The defense discovery packets shall be provided within forty-five (45) days of arrest to all attorneys who have filed a general letter of representation along with the appropriate discovery requests with the Solicitor's office.
- C. The Solicitor's Office shall prepare a written plea offer for all General Sessions cases within forty-five (45) days of arrest to all attorneys that have filed a general letter of representation with the Solicitor's Office.
- IV. INITIAL APPEARANCE

the state may consent to a competency evaluation of the subject defendant at the Initial Appearance. In the alternative, the State and defense may schedule a hearing to determine if a competency evaluation is necessary.

- F. In all cases where it is feasible to do so, at Initial Appearance the defendant and the State shall enter into negotiations concerning pleas and scheduling. All offers tendered at the Initial Appearance must be accepted or rejected by the defendant's Docket Appearance date.
- G. In order to be prepared to respond to the State's plea offer in a timely manner, all Public Defenders and conflict Court-appointed counsel shall meet in person with their clients prior to the Docket Appearance for the purpose of discussing the State's plea offer and all other matters relating to the defendant's case. It is suggested that the Public Defender use the Initial Appearance to schedule appointments for this purpose.
- H. Prior to the Initial Appearance, the case will be assigned to disposition dates in one of three dispositional tracks. These tracks will be 180, 270, and 365 days. Assignment of cases to tracks is the responsibility of the Solicitor's Office and is done at the sole discretion of the Solicitor. It is the objective of all parties to have every case concluded on or before its disposition date. Should the disposition date fall on a non-court week, it will be extended until the end of the next term of court. Homicide, criminal sexual conduct cases, and such other cases deemed by the Solicitor to be especially timeconsuming are an exception to this system and will not be assigned a disposition date. The disposition date is calculated from the Initial MARLES C OLENK Appearance date.

#### V. INDICTMENTS

- A. All General Sessions cases to be presented for indictment shall be presented to the Marlboro County Grand Jury within ninety (90) days in accordance with Rule 3 of the South Carolina Rules of Criminal Procedure. This Court recognizes that due to their nature or type, certain cases may not be prepared to go to the Grand Jury within ninety days and grants an extension in those instances.
- B. In accordance with South Carolina law, no preliminary hearings will be held on indicted cases.

#### DOCKET APPEARANCE ٧Ī.

A. The Docket Appearance will be held in the Courtroom of the Marlboro County Courthouse as set forth in the schedule prepared and supplied by the Solicitor's Office. When the Courtroom is not available, the Solicitor may

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hold appearances at another appropriate venue. Roll call will be conducted as necessary to ensure attendance. The Clerk is authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge of General Sessions Court.

B. All parties shall, during this appearance, engage in final plea negotiations. In those cases where a plea agreement is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and schedule the plea.

- C. Plea offers shall expire at the end of the business day on the Docket Appearance date and will not be extended unless the defendant can demonstrate a material change in circumstances or some other exceptional situation.
- D. The presiding General Sessions Court Judge will hold Docket Appearance status conferences on cases that remain unresolved during the next General Sessions Court week following the Docket Appearance to assist the parties in resolving their cases, to allow the State to withdraw its plea offer, to address attorney issues, advise of the possibility of waiver of counsel, and advise of trial "in absentia". Status conferences may be used to assist the parties in reaching agreements.
- E. Defendants who remain unrepresented on their Docket Appearance date must be present in Court throughout the following term. These defendants must appear for each successive term of Court as required by their bond until their case is disposed.

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F. All defense attorneys and their client Defendants must appear at the Docket Appearance unless excused, in writing, by the Chief Administrative Judge of General Sessions Court.

VII. GENERAL SESSIONS COURT PRACTICE

A. A trial roster and roll call roster shall be prepared for each term of General Sessions Court. For consecutive terms, the rosters may cover two terms of court. The rosters shall be prepared and published at least seven (7) business days prior to the term of Court by posting in the Courthouse, provided to the Chief Public Defender for Marlboro County, to other counsel of record, and to the Chief Administrative Judge for General Sessions Court.

B. The Solicitor's Office shall set the order of trials.

C. All motions for continuance and requests for orders of protection shall be submitted to the presiding Judge and Solicitor's Office no later than seven (7) days prior to the commencement of the Court term. The Court will endeavor to hear and rule on the motions for continuance and requests for orders of protection before the commencement of the term of Court.

D. During a term of General Sessions Court, all assigned Solicitors and Public Defenders shall be present in the designated courtroom no later than 9:00 am for the morning session of court and 1:30 pm for the afternoon session of court, unless excused by the presiding Judge.

E. Nothing in this order shall be construed by this Court or any other Court as a reason for a case to be judicially dismissed. This order is intended to be strictly administrative in nature.

## IT IS SO ORDERED,

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Honorable Howard P. King Chief Administrative Judge Fourth Judicial Circuit

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# STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS COUNTY OF RICHLAND

The State of South Carolina ) ADMINISTRATIVE ORDER

Pursuant to the authority vested in the Court by the attached Administrative Order (Attachment "A") signed by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Administrative Order is adopted by this Court for Richland County.

This Court Orders that all General Sessions cases in which an arrest is made after December 31, 2001 will be processed through the Court under the principles of a track system. In accordance with the requirements of this system the following rules are adopted.

The Court directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of the county, the following procedure is to be followed:

# A. Bond Hearing

- 1. Magistrates and Municipal Judges are required to transmit warrants to the Richland County Clerk of Court within fifteen (15) days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.
- 2. All defendants will be screened by the Magistrate at their bond hearing to determine if they qualify for appointment of counsel. The screening will be done as prescribed by the Clerk of Court and will be conducted by the on-duty magistrate for all defendants, included those charged by other jurisdictions.
- 3. The defendant will be served with a Notice of Initial Appearance at his/her bond hearing. The date of the Initial Appearance will be assigned in accordance with the schedule prepared and distributed by the Solicitor's Office. The defendant's attendance at the initial appearance will be made a condition of that defendant's bond by noting this in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. At the time that the initial appearance is set, the Judge setting the defendant's bond will inform the defendant, orally and in writing of his/her right to a Preliminary Hearing. Dates for any Preliminary Hearings will be scheduled at the defendant's initial appearance.
- B. <u>Initial Appearance</u>
  - 1. The initial appearance will be held at the Richland County Judicial Center. Roll call will be conducted as necessary to ensure attendance. The Clerk of

Court is authorized to issue a bench warrant for any defendant who fails to appear and has not been excused by the Solicitor's Office.

- 2. The will be no continuance of the Initial Appearance.
- 3. A preliminary hearing, if desired, must be requested in writing on or before the Initial Appearance date.
- 4. The following issues will be addressed at the Initial Appearance:
  - a) If a defendant qualifies for Court appointed counsel and has not retained private counsel by his/her initial appearance, the Public Defender will continue to represent the defendant.
  - b) If a defendant qualifies for a Public Defender but has retained private counsel prior to the initial appearance date, that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor's Office. The Public Defender will be relieved of representation at that time.
  - c) If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Clerk of Court and served on the Solicitor's Office.
  - d) Unrepresented defendants may apply for a Public Defender at the Initial Appearance. The Clerk of Court will take applications and if approved, the Public Defender will be assigned that day.
  - e) Defendants who remain unrepresented at the Initial Appearance must appear on their Second Appearance Returnable date and remain in court throughout that term until excused by the Court. These defendants must appear for each successive term of court as required by their bond until their case is disposed.
  - f) Any mental health issues.
  - g) Any issues related to the analysis of drugs or other types of evidence.
  - h) Any other issue that may affect the timing of the disposition of the criminal case.
- 5. In all cases where the defendant is represented by the Public Defender, the Public Defender will assess the case at the Initial Appearance for possible conflicts of interest and resolved those conflicts readily identifiable on that date. The Clerk of Court will, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advised the defendant of the identity of their attorney. The newly appointed counsel will also be notified on that date and a preliminary hearing will automatically scheduled for the defendant.
- 6. In all cases where it is feasible to do so, the defendant and the State will enter into negotiations concerning pleas at the Initial Appearance. All offers tendered at the Initial Appearance must be accepted or rejected by the Thursday prior to that defendant's Second Appearance. If no plea offer can be

made at the initial appearance, it will be tendered by the Thursday prior to the defendant's Second Appearance.

- 7. By the Initial Appearance, the Solicitor will provide discovery in all cases in which the appropriate motions have been filed with the Clerk of Court and served on the Solicitor's Office.
- 8. All law enforcement agencies are required to forward all existing case reports to the Solicitor's Office no later than fifteen days prior to the initial appearance date.
- 9. At the Initial Appearance the case will be assigned to one of three dispositional tracks. These tracks will be 120, 180 and 270 days long. Assignment of cases to a track will be the responsibility of the Solicitor's Office, and done at the sole discretion of the Solicitor's Office. Murder cases, Criminal Sexual Conduct cases, and Criminal Sexual Conduct with Minor cases will not fall within the guidelines of any track. The Chief Administrative Judge must approve any deviation from the track.
- 10. The length of the track in which a case is placed determines the deadline by which a case must be disposed. The date is calculated from the Initial Appearance date. If the date falls within a non-court week, it will be extended until the end of the next term of court.
- 11. If the plea negotiations are unsuccessful at the Second Appearance the case will be scheduled for trial before one of the presiding General Sessions judges. Except for good cause shown to the Chief Administrative Judge, the Chief Administrative Judge must hear any plea taken after the case is scheduled for trial.
- 12. Cases may be resolved at any time prior to the specified guidelines.
- C. <u>Preliminary Hearings</u>
  - 1. Preliminary hearings will be held at the appropriate Court issuing the charge against the defendant.
  - 2. The Solicitor's Office will represent the State at all preliminary hearings.
  - 3. Continuances of preliminary hearings may be granted *only* in extreme circumstances.
  - 4. The defendant or his/her attorney must be present to be given a preliminary hearing. If a hearing has been requested in a case that involves an individual affiant, the failure of that affiant to appear and give testimony will result in the

dismissal of the warrant if the defendant and/or his lawyer appear and make the appropriate motion.

- D. <u>General Sessions Court Practice</u>
  - 1. The Solicitor's Office will, on the 1<sup>st</sup> and 15<sup>th</sup> of each month, provide the Chief Administrative Judge a list of all pending cases that are within 30 days of their track deadlines.
  - 2. Presiding Judges will be available from 9:00-9:30 AM on Tuesday through Friday of each General Sessions Court terms to hold case status conferences with attorneys for the State and the defense. Either party may request conferences.
  - 3. At least seven days before each term of court, the Solicitor will prepare and publish a docket of all cases that are subject to call during that court term. Making the docket available in the Solicitor's Office shall effect publication. The Solicitor's Office will also distribute the docket to those attorneys listed upon it by either Fax, US Mail or by hand delivery. It is the responsibility of all attorneys who have clients on this docket to notify their clients that their case is scheduled for disposition.

# AND IT IS SO ORDERED.

Henry F. Floyd Chief Administrative Judge, General Sessions Fifth Judicial Circuit

This\_\_\_\_\_day of\_\_\_\_\_, 2001. Columbia, South Carolina.

I CONSENT:

W. Barney Giese, Solicitor Fifth Judicial Circuit

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS COUNTY OF LANCASTER GEMENT SYSTEM ORDER

The within Criminal Case Management System Order is hereby approved and made the order of this court for the processing of criminal cases in the Court of General Sessions for Lancaster County and supersedes and replaces all previously issued orders.

## 1. SCHEDULING

The dates of the events required pursuant to the terms of this order shall be determined based upon the terms of General Sessions Court scheduled for Lancaster County for each sixmonth period by the South Carolina Court Administration. As soon as practicable after the publication of the court schedule, the General Sessions Court Coordinator (GSCC) within the office of the Lancaster County Clerk of Court, with approval of the Chief Judge for Administrative Purposes (CJAP) for the Sixth Judicial Circuit, shall prepare a schedule of the dates of these events and shall distribute the schedule to the magistrate and municipal courts, law enforcement agencies, the solicitor, the public defender, and the private bar.

# 2. TRANSMITTAL OF CHARGING PAPERS

A. Law Enforcement Agencies. Law enforcement agencies shall return the original arrest warrant or uniform traffic ticket to the magistrate or municipal court which issued the warrant or ticket the next business day after the service of the warrant or ticket or as soon thereafter as practicable.

B. Magistrate and Municipal Courts. Pursuant to Sections 14-25-45 and 22-5-350 of the Code of Laws of South Carolina and Rule 3(a) of the South Carolina Rules of Criminal

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Procedure, the magistrate and municipal courts shall forward to the Lancaster County Clerk of Court the original warrant or ticket and all other documents pertaining to the case including, but not limited to, the bond, within 15 days from the date of arrest.

C. Clerk of Court. Pursuant to Rule 3(b) of the South Carolina Rules of Criminal Procedure, the clerk of court shall forward a copy of the warrant or ticket to the solicitor within two (2) business days from the date of receipt from the issuing official.

#### 3. BOND HEARINGS

A. Bond hearings for bailable offenses shall be held by magistrate and municipal judges pursuant to Sections 14-25-45 and 22-5-510 et seq. of the Code of Laws of South Carolina utilizing Bail Proceeding Form I (SCCA 510A and 510B), Bail Proceeding Form II (SCCA 511A and 511B), and Checklist for Magistrates and Municipal Judges (SCCA 507). Bond hearings for nonbailable offenses shall be held before the Court of General Sessions. Motions to reconsider bond and motions to revoke or modify bond pursuant to Section 17-15-55 of the Code of Laws of South Carolina shall be in writing, filed with the clerk of court, and served upon the opposing party and shall be heard before the Court of General Sessions.

B. Notice of Right to Counsel.

The magistrate or municipal judge shall inform the defendant of his right to court appointed counsel if he is financially unable to retain counsel pursuant to Section 17-3-5 et seq. of the Code of Laws of South Carolina. The presiding magistrate or municipal judge shall, at each defendant's bond hearing, screen that defendant to determine if he qualifies for court appointed counsel.

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C. Notice of Right to Preliminary Hearing.

The magistrate or municipal judge shall notify the defendant orally and in writing of his right to a preliminary hearing pursuant to Sections 14-25-45 and 17-23-160 of the Code of Laws of South Carolina and Rule 2 of the South Carolina Rules of Criminal Procedure. The defendant or his attorney shall request a preliminary hearing by delivering the completed Notice of Right to Preliminary Hearing (SCCA 512) to the GSCC at the defendant's First Appearance. The GSCC shall provide the solicitor a list of those cases for which defendants have requested preliminary hearings. The solicitor shall provide the list to the Lancaster County Magistrate Court and the Lancaster Municipal Court.

D. Notice of First and Second Appearances.

The magistrate or municipal judge shall notify the defendant orally and in writing of the dates, times, and places of the defendant's mandatory First and Second Appearances in the Court of General Sessions. The written notice shall be on a form provided by the solicitor preprinted with the dates, times, and places of the First and Second Appearances. The magistrate or municipal judge shall complete the form, make one copy, deliver the copy to the defendant, and deliver the original to the GSCC. Magistrate and municipal judges shall transmit these forms to the GSCC each Friday.

The magistrate or municipal judge shall make the defendant's appearance at the First and Second Appearances a condition of the defendant's bond and shall notify the defendant orally and in writing of this condition of his bond and that if the defendant fails to appear for either the First or Second Appearance, a bench warrant for his arrest may be issued.

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### 4. NOTICE OF REPRESENTATION

If the defendant is determined financially unable to retain counsel and is appointed a public defender, the public defender's office shall file with the clerk of court and serve upon the solicitor a notice of representation. The notice of representation shall specify the name of the assigned public defender or the member of the private bar appointed to represent the defendant in conflict cases and the warrant or ticket number(s).

If the defendant retains private counsel, the retained attorney shall file with the clerk of court and serve upon the solicitor a notice of representation specifying the warrant or ticket number(s).

If an attorney desires to be relieved from his representation of a defendant at the request of the attorney or of the defendant, he shall either obtain an order consented to by the defendant and the solicitor and signed by the court or obtain an order after a hearing with proper notice to the defendant and the solicitor and signed by the court. The hearing shall be scheduled by the GSCC. If the order does not specify the name of an attorney substituted to represent the defendant, the order shall include a date, time, and place for the defendant to appear before the CJAP or a presiding judge for a hearing to resolve the issue of the defendant's representation.

#### 5. DISCOVERY

A. Law Enforcement Agencies.

Law enforcement agencies shall provide the solicitor a copy of the file for each case within 15 days of the date of the defendant's arrest but in no case later than 15 days before the defendant's First Appearance. If the file is incomplete, the agency shall provide the solicitor as much of the file as is complete within this time and shall immediately provide the solicitor

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additional materials as they are added to the file, identifying the case by the defendant's name and the agency case number (CRN).

If the solicitor has not received a file from the agency by the date of the defendant's First Appearance, the CJAP or the presiding judge may dismiss the case without prejudice. If the case is dismissed, the GSCC shall notify the defendant (if he is unrepresented) or his attorney and the bondsman that the defendant is not required to appear for his scheduled Second Appearance. Another warrant may not be sought by the law enforcement agency without a finding by the CJAP or the presiding judge of good cause why the agency did not provide the solicitor a copy of the file as required herein.

B. Solicitor's Office.

The solicitor shall provide a copy of the file to the attorney for each defendant who has filed and served upon the solicitor notice of representation and discovery motions pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure and/or **Brady v**. **Maryland** and to each pro se defendant who has filed and served these motions upon the solicitor. The solicitor shall provide this information to the defendant or his attorney no later than the date of the defendant's First Appearance.

#### 6. PLEA OFFERS

The solicitor shall provide the attorney for each represented defendant and each pro se defendant a written plea offer no later than the date of the defendant's First Appearance. The plea offer shall include the defendant's current charge and all other Lancaster County General Sessions Court charges pending against the defendant.

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If the solicitor declines to extend to the defendant a plea offer or is unable to do so by the date of the defendant's First Appearance, he shall so inform the defendant or his attorney in writing no later than the date of the defendant's First Appearance.

The written plea offer shall remain in effect until the conclusion of the defendant's Second Appearance. The solicitor and the defendant shall attempt to reach an agreement concerning disposition of the defendant's charge or charges by negotiation from the date of the tender of the offer through the conclusion of the defendant's Second Appearance. If no such agreement is reached, the plea offer shall be withdrawn at the conclusion of the defendant's Second Appearance. If an agreement is reached, the charge or charges shall be scheduled for disposition by guilty plea as scheduled by the GSCC.

# 7. FIRST AND SECOND APPEARANCES

First and Second Appearances may be presided over by the CJAP or a circuit court judge designated by the CJAP. The CJAP or the GSCC shall sound the roll of defendants. The Solicitor is authorized to conduct these appearances as well.

First and Second Appearances shall be mandatory and shall not be continued. All defendants and their attorneys shall appear at each defendant's First Appearance unless all issues to be resolved at the First Appearance have been resolved and the defendant's attorney has filed with the clerk of court and served upon the solicitor a First Appearance Report indicating that these issues have been resolved. All defendants and their attorneys shall appear at each defendant's Second Appearance. If the defendant fails to appear as required at his First or Second Appearance, the GSCC, at the direction of the CJAP or the presiding judge, or upon notice given by the solicitor, shall issue a bench warrant for the defendant's arrest for failure to appear in violation of the terms of the defendant's bond.

#### A. First Appearance.

The following issues shall be resolved at the defendant's First Appearance:

i. Representation. The public defender's office and retained attorneys shall file with the clerk of court and serve upon the solicitor notice of representation no later than the defendant's First Appearance. Defendants unrepresented at the First Appearance who desire appointed counsel shall be referred by the GSCC to the office of the clerk of court for indigency screening. Any defendant who remains unrepresented at the conclusion of his First Appearance shall be required to appear at the next term of General Sessions Court and to remain throughout that term and subsequent terms until the issue of his representation is resolved by the CJAP or the presiding judge. All conflicts or claimed conflicts of interest concerning legal representation shall be resolved at the First Appearance.

ii. Discovery and Plea Offers. The solicitor shall provide a copy of the file to the attorney for each represented defendant and to each pro se defendant who have filed and served the proper discovery motions. The solicitor shall provide a written plea offer to the attorney for each represented defendant and to each pro se defendant unless the solicitor declines to do so or is unable to do so and so notifies the defendant or his attorney in writing. If a plea agreement is reached, a date and time for the guilty plea hearing shall be scheduled by the GSCC.

iii. Preliminary Hearings. A defendant who desires a preliminary hearing shalldeliver to the GSCC his completed Notice of Right to Preliminary Hearing at the defendant'sFirst Appearance.

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Attorneys for represented defendants and all pro se defendants are required to appear at preliminary hearings. If the attorney for a represented defendant or a pro se defendant fails to appear at the preliminary hearing after proper notice, the defendant shall be deemed to have waived his right to the preliminary hearing. A preliminary hearing shall not be held in any case in which the defendant is indicted by the grand jury before the preliminary hearing is held.

iv. Mental Health Issues. Issues known to the defense or the state concerning the defendant's competency to stand trial, criminal responsibility, or any other aspect of the defendant's mental health shall be discussed and resolved by consent if possible. Any such issues which cannot be resolved by consent shall be scheduled for a hearing by the GSCC.

v. Other Issues. Any other issues known to the defense or the state which likely will impact the scheduling or disposition of the case shall be discussed and resolved by consent if possible. Any such issues which cannot be resolved by consent shall be scheduled for a hearing by the GSCC.

vi. PreTrial Intervention. The solicitor shall have personnel available at all First Appearances to explain the PreTrial Intervention Program and to take applications for the program or to schedule appointments to take the applications.

B. Second Appearance.

Plea negotiations shall be concluded. If a plea agreement is reached, a date for the guilty plea hearing shall be scheduled by the GSCC. If no plea agreement is reached, the plea offer shall be deemed withdrawn, and the case shall be scheduled for trial by the GSCC.

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Any issues known to the defense or the state which likely will impact the scheduling or disposition of the case shall be discussed and resolved by consent if possible or scheduled for a hearing by the GSCC.

#### 8. INDICTMENT

The solicitor shall within 90 days after receipt of a warrant or ticket from the clerk of court take action on the same by preparing an indictment for presentment to the grand jury, assigning a criminal case number to the indictment, and presenting it to the grand jury unless some other action is taken on the warrant or ticket pursuant to Section 17-19-10 of the Code of Laws of South Carolina and Rule 3(c) of the South Carolina Rules of Criminal Procedure..

# 9. GENERAL SESSIONS COURT PRACTICE

A. Plea Docket

The GSCC, in conjunction with the Solicitor's office, shall maintain a plea docket from information obtained at First and Second Appearances. The GSCC or solicitor shall notify the defendant or his attorney of the date, time, and place of the guilty plea hearing. The parties shall complete sentencing sheets, restitution orders, and all other necessary documents prior to the scheduled guilty plea hearing. If a defendant does not appear for his guilty plea hearing, the GSCC or solicitor shall, at the direction of the CJAP or the presiding judge, issue a bench warrant for his arrest.

#### B. Trial Docket

Before the first term of General Sessions Court for each month, the Solicitor shall prepare a trial docket of all cases that are subject to call during that month. The Solicitor, in conjunction with the GSCC, shall distribute the trial docket to all attorneys representing

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

defendants on the trial docket at least 30 days before the first term of General Sessions Court for that month by notifying all defense attorneys and pro se defendants on the trial docket by hand delivery, fax, mail, or electronic delivery.

All attorneys representing defendants on the trial docket shall provide the GSCC their telephone numbers, fax numbers, and email addresses to facilitate communication between the parties. Attorneys shall notify their clients of the date, time, and place of trial.

All defendants and their attorneys shall appear for the sounding of the trial docket. All pro se defendants shall remain in the courtroom while court is in session throughout the term. The GSCC shall, at the direction of the CJAP or the presiding judge, issue a bench warrant for the arrest of any defendant who fails to appear. The presiding judge will sound the trial docket to determine whether any of the defendants on it intend to plead guilty. Guilty plea hearings for these defendants shall be held during that term of court as scheduled by the presiding judge. The CJAP has the discretion to determine the number of cases on the trial docket.

#### C. Bond Hearings

Defense attorneys and the solicitor shall file and serve the proper motions concerning bond matters no later than 5:00 p. m. the Monday of each term of General Sessions Court (or Tuesday at 9:00 a. m. if Monday is a holiday). These bond hearings shall be held beginning at 9:00 a. m. the Friday of that term of General Sessions Court.

### D. Status Conferences

The presiding judge will be available during each term of General Sessions Court from 9:00 a. m. to 9:30 a. m. Tuesday through Friday to hold status conferences on any case if requested by either party.

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### E. Day Certain Scheduling

The CJAP has the authority to schedule trials, pleas, motions, and other hearings for certain dates and times sua sponte or upon the request of solicitors or defense attorneys.

# **10. GENERAL PROVISIONS**

The terms of this Criminal Case Management System Order are administrative in nature and are intended to facilitate the orderly disposition of cases in General Sessions Court. Nothing herein shall be construed to alter the rights of any defendant or the State of South Carolina pursuant to the Constitutions of the United States of America and of the State of South Carolina, the Code of Laws of South Carolina, or the common law.

**IT IS SO ORDERED!** 2015

Lancaster, South Carolina

Brian MVGibbons Chief Judge for Administrative Purposes Court of General Sessions Sixth Judicial Circuit

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IN THE COURT OF GENERAL SESSION

COUNTY OF SPARTANBURG



# AMENDED ADMINISTRATIVE ORDER

Pursuant to the authority vested in the Court by the attached Administrative Order (Attachment 'A") signed by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Administrative Order is adopted by this Court for Spartanburg County.

The Administrative Order of Judge J. Mark Hayes dated October 29, 2004, which has managed General Sessions' charges moving through the system since January 1, 2005, is modified to address additional changes to the system. After September 15, 2008, the Solicitor will no longer determine the General Sessions Docket. This authority is voluntarily transferred by the Solicitor to the Chief Administrative Judge for General Sessions for an indefinite period of time as a pilot program in the Seventh Judicial Circuit.

This Court orders that all General Sessions cases in which an arrest is made after December 31, 2004, will be processed through the Court under the principles set forth in this order. In accordance with the requirements of this system the following rules are adopted.

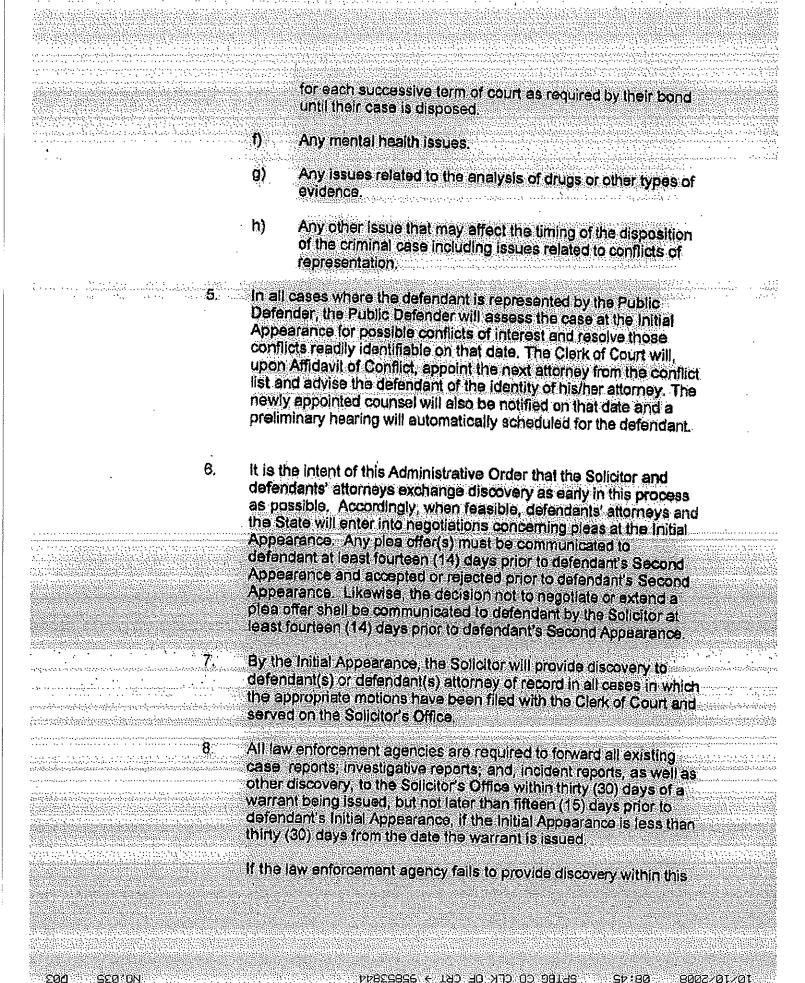
The Court directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of the county, the following procedure is to be

1 	Magistrates and Municipal Judges are required to transmit warrants to the Spartanburg County Clerk of Court within fifteen (15) days as required by Rule 3 (a) of the South Carolina Rules of Criminal Procedure.
	All defendants will be, screened by the Magistrate at their bond hearing to determine if they qualify for appointment of counsel. The screening will be conducted by the on-duty magistrate for all defendants, including those charged by other jurisdictions.
3	The defendant will be served with a Notice of Initial Appearance at his/her bond hearing. The date of the Initial Appearance will be assigned in accordance with the schedule prepared and distributed by the Chief Administrative Judge. The defendant's attendance at the initial appearance will be made a condition of that defendant's bond by noting this under Section III of a Personal Recognizance

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		(ne will Prei	Id Form or Section D of a Surety Bond Form. At the time that initial appearance is set, the Judge setting the defendant's bond inform the defendant, orally and in writing, of his/her right to a iminary Hearing. Dates for any Preliminary Hearings will be eduled at the defendant's initial appearance
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na 1881. a data da Propio. T	<b>1.</b>	Judi attei Warr	initial appearance will be held at the Spartanburg County icial Center. Roll call will be conducted as necessary to ensure ndance. The Clerk of Court is authorized to issue a bench rant for any defendant who fails to appear and has not been used by the Administrative Judge.
	2.	The	re will be no continuances of the Initial Appearance.
	3.	A pr befo	eliminary hearing, if desired, must be requested in writing on or ore the Initial Appearance date.
	4.	The	following issues will be addressed at the Initial Appearance:
·		.a)	If a defendant qualifies for Court appointed counsel and has not retained private counsel by his/ner initial appearance, the Public Defender will continue to represent the defendant.
		b)	If a defendant qualifies for a Public Defender but has retained private counsel prior to the initial appearance date, that attorney must -file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor's Office. The Public Defender will be relieved of representation at that time.
		<b>c)</b>	If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Clerk of Court and served on the Solicitor's Office.
		0	Unrepresented defendants may apply for a Public Defender at the Initial Appearance. The Public Defender's office will take applications and if approved, the Public Defender will be assigned that day.
		e)	Defendants who remain unrepresented at the Initial Appearance must appear on their Second Appearance. Returnable date and remain in court throughout that term until excused by the Court. These defendants must appear

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deadline, the warrant(s) may be dismissed without prejudice by the Chief Administrative Judge for General Sessions or his designeted Judicial representative.

- Notification will be provided to the defendant, or defendant's attorney of record, and defendant's bondsman that defendant is not required to appear at the Initial Appearance when the warrants are dismissed. Prior to the issuance of another warrant after dismissal without prejudice of the original warrant for failure to timely comply with discovery transmittal, the requesting law enforcement agency must establish good cause for its initial failure to timely transmit discovery to the Chief Administrative Judge for General Sessions or to another judicial representative to whom that authority has been delegated. Failure to present good cause will result in the refusal to issue the second warrant.
- At the Initial Appearance the case will be assigned to a 180 day track. Murder cases, Criminal Sexual Conduct cases, and Criminal Sexual Conduct with Minor cases will not fall within the guidelines of this order except that they should be resolved within one year absent court approved deviation. In addition, the Chief Administrative Judge must approve any deviation from the 180 day track for other cases;
- 10. At the 2nd Appearance the court will inquire whether a matter is for plea or for trial. If the matter is a plea, the court will assign a date and time for the plea hearing to be held. All sentencing sheets and other paperwork must be completed by the parties prior to the day the matter is set for a plea hearing.
  - If the plea negotiations are, unsuccessful at the Second Appearance the case will be scheduled for trial before one of the presiding General Sessions judges. Except for good cause shown to the Chief Administrative Judge, the Chief Administrative Judge must hear any plea taken after the case is scheduled for trial or such information will be provided to the court as may be required by the Chief Administrative Judge for General Sessions prior to the taking of the plea.
  - Cases may be resolved at any time prior to the specified guidelines.
- C. Preliminary Hearing

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Preliminary hearings will be held at the appropriate Court issuing the charge against the defendant.

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	2	The Solicitor's Office will represent the State at all preliminary hearings.
a per la facto de la composition de la Composition de la composition de la comp Composition de la composition de la comp		Continuances of preliminary hearings may be granted only in extreme circumstances.
11	<b>4</b> .	The defendant or his/her attorney must be present to be given a preliminary hearing. If a hearing has been requested in a case that involves an individual afflant, the failure of that affiant to appear and give testimony will result in the dismissal of the warrant if the defendant and/or his lawyer appear and make the appropriate motion.
	D. <u>Genera</u>	I Sessions Court Practice
	<b>1.</b>	Presiding Judges will be available from 9:00-9:30AM on Tuesday through Friday of each General Sessions Court terms to hold case status conferences with attorneys for the State and the defense. Either party may request conferences.
	2.	At least fourteen (14) days before each term of court, the Chief Administrative Judge of General Sessions will prepare and publish a docket of all cases that are subject to call during that court term. Making the docket available in the Clerk of Court's Office or placement on the Clerk's internet site shall effect publication. The General Sessions Court Coordinator will also distribute the docket
		to mose attorneys listed upon it by either Fax, US Mail, hand delivery, or electronic delivery. It is the responsibility of all attorneys who have clients on this docket to notify their clients that their case is scheduled for disposition. The Chief Administrative Judge will allow the Solicitor's Office tan percent (10%) of the trial
	an a	docket slots for priority cases, defined as: those cases having a high profile; where the community is at risk regarding a particular defendant; or, interstate detainer act cases, etc.

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The Chief Administrative Judge for General Sessions will have the right to require status conferences on all cases that have passed the deadline for disposal on such forms as may be required by the Court.

# AND IT IS SO ORDERED.

Dated

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Chief Justice South Carolina Supreme Court

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MARC KHTCHENS

We So Move and Consent:

7th Circuit Public Defender-

partanburg County Clerk of Court

Spartanburg County Bar, General Sessions Representative

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COUNTY OF SPARTANBURG)

# **REVISED AMENDED ADMINISTRATIVE ORDER AS OF AUGUST 23, 2013**

Pursuant to the authority vested in the Court by the attached Administrative Order (Attachment 'A") signed by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Administrative Order is adopted by this Court for Spartanburg County.

The Administrative Order of Judge J. Mark Hayes dated October 29, 2004, which has managed General Sessions' charges moving through the system since January 1, 2005, is modified to address additional changes to the system. After September 15, 2008, the Solicitor will no longer determine the General Sessions Docket. This authority is voluntarily transferred by the Solicitor to the Chief Administrative Judge for General Sessions for an indefinite period of time as a pilot program in the Seventh Judicial Circuit.

This Court orders that all General Sessions cases in which an arrest is made after December 31, 2004, will be processed through the Court under the principles set forth in this order. In accordance with the requirements of this system the following rules are adopted.

The Court directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of the county, the following procedure is to be followed:

## A. Bond Hearing

1. Magistrates and Municipal Judges are required to transmit warrants to the Spartanburg County Clerk of Court within fifteen (15) days as required by Rule-3(a) of the. South Carolina Rules of Criminal Procedure.

2. All defendants will be, screened by the Magistrate at their bond hearing to determine if they qualify for appointment of counsel. The screening will be conducted by the on-duty magistrate for all defendants, including those charged by other jurisdictions.

3. The defendant will be served with a Notice of Initial Appearance at his/her bond hearing. The date of the Initial Appearance will be assigned in accordance with the schedule prepared and distributed by the Chief Administrative Judge. The defendant's attendance at the initial appearance will be made a condition of that defendant's bond by noting this under Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. At the time that the initial appearance is set, the Judge setting the defendant's bond will inform the defendant, orally and in writing, of his/her right to a Preliminary Hearing. Dates for any Preliminary Hearings will be scheduled at the defendant's initial appearance.

# B. Initial Appearance

1. The initial appearance will be held at the Spartanburg County Judicial Center **approximately sixty (60) days after the Bond Hearing.** Roll call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue a bench warrant for any defendant who fails to appear and has not been excused by the Administrative Judge.

2. There will be no continuances of the Initial Appearance.

3. A preliminary hearing, if desired, must be requested in writing on or before the Initial Appearance dale.

4. The following issues will be addressed at the Initial Appearance:

a) If a defendant qualifies for Court appointed counsel and has not retained private counsel by his/her initial appearance, the Public Defender will continue to represent the defendant.

b) If a defendant qualifies for a Public Defender but has retained private counsel prior to the initial appearance date, that attorney must -file a general notice of representation with the Clerk of Court and serve a <u>filed</u> copy on the Solicitor's Office. The Public Defender will be relieved of representation at that time.

c) .If a defendant did not qualify for a Public Defender and private counsel has been retained, then a letter of representation must be filed with the Clerk of Court and <u>filed</u> <u>copy of the letter</u> served on the Solicitor's Office.

d) Unrepresented defendants may apply for a Public Defender at the Initial Appearance. The Public Defender's office will take applications and if approved, the Public Defender will be assigned that day.

e) Defendants who remain unrepresented at the Initial Appearance must appear on their Second Appearance. Returnable date and remain in court throughout that term until excused by the Court. These defendants must appear for each successive term of court as required by their bond until their case is disposed.

f) Any mental health issues.

g) Any issues related to the analysis of drugs or other types of evidence.

h) Any other issue that may affect the timing of the disposition of the criminal case including issues related to conflicts of representation.

## The Defendant's attorney prior to first appearance may submit a First Appearance Report prior to the first appearance date. The First Appearance Report form must be

completed filled out with the information requested by the Court at First Appearance. (Please see attachment #1- First Appearance Report Form). The Defendant's attorney must file a copy with the Clerk of Court office and a filed copy to the Solicitor's Office of the first appearance date or the attorney will need to appear at the first appearance hearing. If the defendant obtains an attorney and the attorney either files a First Appearance Report Form or appears in person for the defendant, the defendant does not have to appear for first appearance.

5. In cases where the defendant is represented by the Public Defender, the Public Defender will assess the case at the Initial Appearance for possible conflicts of interest and resolve those conflicts readily identifiable on that date. The Clerk of Court will, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant of the identity of his/her attorney. The newly appointed counsel will also be notified on that date. and a preliminary hearing will automatically scheduled for the defendant.

6. It is the intent of this Administrative Order that the Solicitor and defendants' attorneys exchange discovery as early in this process as possible. Accordingly, when feasible, defendants' attorneys and the State will enter into negotiations concerning pleas at the Initial Appearance. Any plea offer(s) must be communicated to defendant at least fourteen (14) days prior to defendant's Second Appearance and accepted or rejected prior to defendant's Second Appearance. Likewise, the decision not to negotiate or extend a plea offer shall be communicated to defendant by the Solicitor at least fourteen (14) days prior to defendant's Second Appearance.

7. By the Initial First Appearance, the Solicitor will provide discovery to defendant(s) or defendant(s) attorney of record in all cases in which the appropriate motions have been filed with the Clerk of Court and served on the Solicitor's Office. The Court realizes that items being tested by SLED and other outside agencies may not be done at this time and will ask these items to be provided to the defendant(s) or defendant(s) attorney of record within a reasonable amount of time. The Court also realizes that on some cases that the defendant hires an attorney just before first appearance that the Solicitor cannot comply with discovery, the State will provide discovery to defendant by the Second appearance in these cases once all the appropriate motions has been filed with the Clerk of Court and severed on the Solicitor's Office.

8. All law enforcement agencies are required to forward all existing case reports; investigative reports; and, incident reports, as well as other discovery, to the Solicitor's Office within thirty (30) days of a warrant being issued. but not later than fifteen (15) days prior to defendant's Initial Appearance, if the Initial Appearance is less than thirty (30) days from the date the warrant is issued. If the law enforcement agency fails to provide discovery within this deadline, the warrant(s) may be dismissed without prejudice by the Chief Administrative Judge for General Sessions or his designated judicial representative. Notification will be provided to the defendant, or defendant's attorney of record, and defendant's bondsman that defendant is not required to appear at the Initial Appearance when the warrants are dismissed. Prior to the issuance of another warrant after dismissal without prejudice of the original warrant for failure to timely comply with discovery transmittal, the requesting law enforcement agency must establish good cause for its initial failure to timely transmit discovery to the Chief Administrative Judge for General Sessions

or to another judicial representative to whom that authority has been delegated. Failure to present good cause will result in the refusal to issue the second warrant.

9. At the Initial Appearance the case will be assigned to a 180 day track. Murder cases, Criminal Sexual Conduct cases, and Criminal Sexual Conduct with Minor cases will not fall within the guidelines of this order except that they should be resolved within one year absent court approved deviation. In addition, the Chief Administrative Judge must approve any deviation from the 180 day track for other cases.

10. At the 2nd Appearance <u>held approximately one hundred and twenty (120) days</u> <u>after the Bond Hearing</u>, the court will inquire whether a matter is for plea or for trial. If the matter is a plea, the <u>Clerk of Court</u> will assign a date and time for the plea hearing to be held. All sentencing sheets and other paperwork must be completed by the parties prior to the day the matter is set for a plea hearing. <u>The Clerk of Court will develop a plea</u> <u>docket for the scheduled plea judge to handle during a week of General Sessions</u> <u>Court.</u>

11. If the plea negotiations are, unsuccessful at the Second Appearance the case will be scheduled for trial before one of the presiding General Sessions judges assigned by the Chief Administrative Judge. <u>The Court will have the option on the request of one or both parties to restatus the case for a restatus hearing at the after the next second appearance date for good cause. This restatus date cannot be extended unless one or both parties have very specific valid reasons to do so. Except for good cause shown to the Chief Administrative Judge: the Chief Administrative Judge must hear any plea taken after the case is Scheduled for trial or such information will be provided to the court as may be required by the Chief Administrative Judge for General Sessions prior to the taking of the plea.</u>

12. Cases may be resolved at any time prior to the specified guidelines.

13. <u>The Chief Administrative Judge will determine which judge(s) will be the trial judge(s) and which judge(s) will be the plea judge(s) for a week term of General Sessions Court. The Chief Administrative Judge will determine the judge that will gualify the jury and determine the judge that will call the trial docket for a week term of General Sessions Court. The judge who calls the trial docket will determine where any pleas that develop off the trial docket will be schedule to be heard by himself or the plea judge with the General Sessions Coordinator of the Clerk of Court. The General Sessions Coordinator will make a list of the trial docket for the week as well as the pleas from the trial docket. All pleas will be disposed of during the week of General Sessions Court.</u>

14. <u>All defendants must appear for the docket call at Spartanburg County Judicial</u> <u>Center on Monday mornings at 9:00 a.m. for the trial docket and all defendants on the</u> <u>plea docket must appear for the scheduled date and time on the plea docket. If a</u> <u>defendant does not appear for their scheduled time and date, a bench warrant will be</u> <u>issued for their arrest by the Clerk of Court. All pro se defendants on the trial docket</u> <u>must remain in court for the week until their cases is reached on the docket. If they</u>

# leave the courtroom without the Court's permission, a bench warrant will issued for their arrest.

# **C.** Preliminary Hearing

1. Preliminary hearings will be held at the appropriate Court issuing the charge against the defendant.

2. The Solicitor's Office will represent the State at all preliminary hearings.

3. Continuances of preliminary hearings may be granted only in extreme circumstances.

4. The defendant or his/her attorney must be present to be given a preliminary hearing. If a hearing has been requested in a case that involves a <u>self-signed</u> individual affiant, the failure of that affiant to appear and give testimony will result in the dismissal of the warrant if the defendant and/or his lawyer appear and make the appropriate motion.

## D. General Sessions Court Practice

1. Presiding Judges will be available from 9:00-9:30AM on Tuesday through Friday of each General Sessions Court terms to hold case status conferences with attorneys for the State and the defense. Either party may request conferences.

2. At least twenty-eight (28) days before each term of court, the Clerk of Court at the direction of the Chief Administrative Judge of General Sessions will prepare and publish a docket of all cases that are subject to call during that court term. The General Session Court Coordinator will produce a draft docket within 14 days of publishing on the official dockets for the General Sessions docket and provide it to all parties to review for any conflicts. Making the docket available in the Clerk of Court's Office or placement on the Clerk's internet site shall effect publication. The General Sessions Court Coordinator appointed by the Clerk of Court will also distribute the docket to those attorneys listed upon it by either Fax, US Mail, hand delivery, or electronic delivery. It is the responsibility of all attorneys who have clients on this docket to notify their clients that their case is scheduled for disposition and provide their e-mails and/or fax numbers to the Clerk of Court. The Clerk of Court at the direction of the Chief Administrative Judge will allow the Solicitor's Office ten percent (10%) of the trial docket slots. It is the responsibility of all bondsman who have clients on this docket to notify their clients that their case is scheduled for disposition. for priority cases, defined as: those cases having a. high profile; where the community is at risk regarding a particular defendant; or, interstate detainer act cases, -etc.

3. To facilitate orderly handling of the existing pending cases prior to the implementation of this Administrative Order, there is created within the Clerk of Court's Office, the position of General Sessions Court Coordinator.

4. The Chief Administrative Judge for General Sessions will have the right to require status conferences on all cases that have passed the deadline for disposal on such forms as may be required by the Court.

AND IT IS SO ORDERED. Dated:

# The Supreme Court of South Carolina

#### ÖRDER

The Honorable Brooks P. Goldsmith, Chief Judge for Administrative Purposes for the Eighth Judicial Circuit for the period of July 1, 2007 through January 5, 2008 submitted for approval the attached Administrative Orders establishing certain local rules for the processing of criminal cases in Abbeville, Greenwood, Laurens and Newberry Counties. Therefore,

Pursuant to the provisions of S.C. CONST. Art. V, §4, the Administrative Orders are hereby approved for use in Abbeville, Greenwood, Laurens and Newberry Counties.

IT IS SO ORDERED.

Jean Hopfer Toal Chief Justice

December 2007 Columbla, South Carolina

# STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

# IN THE COURT OF GENERAL SESSIONS FOR THE EIGHTH JUDICIAL CIRCUIT

# COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER

Pursuant to the authority vested in this court pursuant to that Consent Order of Jean H. Toal, Chief Justice of the South Carolina Supreme Court, and consented to by the solicitors of the State of South Carolina, dated March 1, 2007, the following Cooperative Case Management Administrative Order is hereby adopted by this court for criminal cases in the Abbeville County General Sessions Court.

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This court hereby declares and orders that all General Sessions cases arising after September 1, 2007, will be processed through the court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The court hereby directs that in each General Sessions case arising before the various magistrates and municipal courts of this county, the following shall be done:

# 1. BOND HEARING

- A. Bond hearings for bailable offenses shall be held by magistrates and municipal judges pursuant to §§ 14-25-45 and 22-5-510 et seq. of the code of Laws of South Carolina utilizing Bail Proceeding Form I (SCCA 510), Bail Proceeding Form II (SCCA 511), and Checklist for Magistrates and Municipal Judges (SCCA 507). The magistrate or municipal judge shall serve the defendant with a Notice of Mandatory Court Appearances (see attached) at the time of the bond hearing. The defendant's attendance at the Initial Appearance Date and Docket Appearance Date shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. Additionally, the magistrate or municipal judge shall insure that the defendant is aware that if the defendant fails to appear for either of the court dates a bench warrant will be issued for his arrest. The dates of the initial appearance and the docket appearance shall be assigned in accordance with the schedule prepared and supplied by the Eighth Circuit Solicitor's Office. Bond hearings for non-bailable offenses shall be held before the Court of General Sessions as soon as practicable.
- B. Preliminary Hearings: During the course of the bond hearing, the magistrate or municipal judge shall inform the defendant in writing and orally of his or her right to a Preliminary Hearing pursuant to §§14-25-45 and 17-23-160 of the South Carolina Code of Laws and Rule 2 of the South Carolina Rules of Criminal Procedure (SCRCrP). Should a hearing be desired, it will be scheduled by the court prior to the Docket Appearance Date.

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Right to Counsel: The magistrate or municipal judge shall inform the defendant of his right to court appointed counsel if he is financially unable to retain counsel pursuant to § 17-3-10 et seq. of the South Carolina Code of Laws. At the conclusion of their bond hearing, all General Sessions defendants shall be screened by the magistrate or municipal court judge to determine if they qualify for appointment of counsel. Such screening shall be done in a manner prescribed by the Clerk of Court. Should the court determine the defendant qualifies for appointed counsel, the judge shall refer the defendant to the Abbeville County Public Defender's Office. The application fee for the screening for Public Defender shall be paid to the Clerk of Court prior to or at the initial appearance. If the Public Defender

Application fee remains unpaid at the conclusion of the case, the trial judge may order payment of the fee as a condition of probation. The magistrates and municipal court judges shall maintain a record of defendants who qualify for court appointed counsel and transmit the completed applications to the Clerk of Court along with the warrants and bond information. The Clerk of Court shall mail copies of the completed applications and warrants to the Public Defender. The Public Defender's Office shall notify the Solicitor's Office and the Clerk of Court in writing within two (2) working days of their representation of any defendant. In the event a defendant waives counsel at the bond hearing, applications for the public defender shall be made available at the jail and at the Clerk of Court's office.

D. Transmittal of Warrants: Pursuant to §§ 14-25-45 and 22-5-350 of the South Carolina Code of Laws and Rule 3 SCRCrP magistrates and municipal court judges shall transmit warrants and all other material pertaining to the case to the Abbeville County Clerk of Court within fifteen (15) days from the date of arrest.

#### 2. DISCOVERY

- A. All law enforcement agencies shall provide complete copies of General Sessions case files, together with all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case file to the Solicitor's Office within twenty-one (21) days of the arrest of the defendant. If the case file remains incomplete thirty (30) days after the arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a list of those items for which law enforcement is waiting. As those items, for which law enforcement is waiting, become available they shall immediately be transmitted to the Solicitor's Office.
- B. The Solicitor's Office shall prepare defense discovery packets on all General Sessions cases. Defense discovery packets shall be provided to defense counsel at the Initial Appearance Date to all defense counsel who have filed a general letter of representation along with the appropriate discovery requests with the Solicitor's Office.
- C. Due to the sensitive nature of audio and video tapes which depict the victim of the crime charged or informant aiding law enforcement in the investigating of the crime, the following restrictions shall be applicable to all such discoverable audio and video evidence:
  - 1. A copy of any discoverable audio taped and/or video taped evidence (hereinafter "evidence") will not be provided to the defendant at the initial appearance; however, counsel for the defense may view the tapes and/or make copies of them post-indictment, in preparation for trial. Counsel for defense, to include appellate counsel and Post-Conviction Relief counsel, shall be allowed to make copies of "evidence" for trial preparation purposes <u>only</u>, and the release of said "evidence" must be in compliance with paragraph five (5) below.
  - 2. The said "evidence" shall not be used for any purpose other than to prepare for the resolution of the case to which that piece of "evidence" pertains.
  - 3. The said "evidence" shall not be publicly displayed, or used in any other fashion, except judicial proceedings in the case to which the "evidence" pertains.
  - 4. The said "evidence" may be viewed only by the parties, their counsel and their counsel's employees, investigators, experts, and those determined by counsel to be necessary in the preparation of the case. No "evidence" shall be divulged to any

person not authorized to view said "evidence" pursuant to this Order.
5. Defense counsel shall not allow "evidence" to be in the defendant's or any other lay person's custody. The defendant may be allowed to view said "evidence" while in the presence of his/her attorney, but the attorney must maintain all such "evidence" in his/her custody at all times. Counsel for the State or Defense are responsible for making any individual aware of the terms of this Order, prior to granting such individual (i.e. investigators, employees, or experts) possession of the "evidence".

- 6. Upon final resolution of the case, all "evidence" shall be collected and maintained or destroyed by the attorney for the State and Defense in a manner protecting the confidentiality of the witness(cs). Likewise, the recipient (i.e. investigators, employees, or experts) of "evidence" shall surrender said "evidence" to the attorney who provided it so that it may be maintained in accordance with this Order. A case shall be deemed to have reached a final resolution when both direct appeal and post-conviction relief proceedings have concluded.
- D. Plea Offers: The Solicitor's Office shall prepare a written plea offer for all General Sessions cases. Plea offers shall be communicated at the Initial Appearance Date to all attorneys who have filed a general letter of representation with the Solicitor's Office. Plea offers will expire at the end of the day of the defendant's scheduled Docket Appearance.

# 3. INITIAL APPEARANCE

- A. The Initial Appearance will be held in the General Sessions Courtroom or other room so designated at the Abbeville County Courthouse on Friday at 2:30 p.m. as set forth in the schedule prepared and supplied by the Solicitor's Office. Roll Call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge for General Sessions (hereinafter Chief Administrative Judge).
- B. There shall be no continuances of Initial Appearances.
- C. Defendants may be excused from Initial Appearance, in writing, by the Solicitor's Office if all matters to be addressed by the prosecution and defense are resolved prior to the hearing.
- D. When available, the presiding Circuit Court judge may hold status conferences during this appearance to assist the parties in negotiating agreements.
- E. The issue of legal representation shall be addressed at the Initial Appearance.
  - 1. If a defendant qualifies for a Public Defender, but has retained private counsel prior to the Initial Appearance date, that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor's office. The Public Defender shall be relieved of representation at that time.
  - 2. If the defendant did not qualify for the Public Defender, and private counsel has been retained, a letter of representation must be filed with the Solicitor's Office prior to or at the Initial Appearance.
  - 3. Unrepresented defendants may apply for the public defender at the Initial Appearance. Applications will be taken by the Clerk of Court and, if approved, will be assigned that day.
  - 4. Defendants who remain unrepresented at the Initial Appearance must appear on

their Docket Appearance date and remain in court until excused by the presiding judge or the Solicitor's Office. These defendants must appear for each successive term of court as required by their bond until their case is disposed.

- 5. Conflicts: In all cases where the defendant is represented by the Public Defender, the Public Defender shall assess the case at the Initial Appearance for possible conflicts of interest and resolve those readily identifiable conflicts on that date. The Clerk of Court shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant as to the identity of their attorney. The newly appointed coursel shall also be notified.
- F. Competency Issues: Issues of competency shall be addressed at the Initial Appearance. When appropriate, defense counsel shall move for a competency evaluation, and the State may consent to the evaluation of the defendant at the Initial Appearance. In the alternative, the State and Defense counsel may schedule a hearing to determine if a competency evaluation is necessary.
- G. Negotiations: In all cases where it is feasible to do so, at the Initial Appearance, the defendant and the State shall enter into negotiations concerning pleas and scheduling. All offers tendered at the Initial Appearance must be accepted or rejected by the defendant's Docket Appearance.
- H. In order to be prepared to respond to the State's plea offer in a timely manner, all counsel should meet in person with their clients prior to the Docket Appearance Date for the purposes of discussing the State's plea offer and other matters relating to the defendant's case.
- I. Dispositions Tracks: All cases shall be assigned one of tow dispositional tracks. Track 1 is 180 days from the date of the Defendant's Initial Appearance. Track 2 is 365 days from the date of the Defendant's Initial Appearance. Assignment of the cases to a track shall be in the sole discretion of the solicitor and shall be made no later than the Defendant's Initial Appearance. Should the dispositional date fall on a non-court week, it will be extended until the end of the next term of court.
- J. Exemptions from Dispositional Tracks: The following cases are exempt from assignment to a dispositional track: Murder, Manslaughter, Reckless Homicide, Felony DUI resulting in Death, Homicide by Child Abuse, and any other offense resulting in the death of the victim. Additionally, all offenses related to Criminal Sexual Conduct, and any other casee the Solicitor deems inappropriate for assignment to a track because of its complexity or extenuating circumstances.

#### 4. INDICTMENTS

- A. All General Sessions cases to be presented for indictment shall be presented to the Grand Jury of Abbeville County within ninety (90) days of receipt of the warrant in accordance with Rule 3 SCRCrP. This court recognizes that due to their nature or type, certain cases may not be prepared to go to the Grand Jury within ninety (90) days and grants an extension in those cases.
- B. In accordance with South Carolina law, a preliminary hearing shall not be held on any case in which the defendant is indicted prior to the preliminary hearing being held.

# 5. DOCKET APPEARANCE

- A. The Docket Appearance will be held along with roll call in the General Sessions Courtroom, or such other place as may be designated, at the Abbeville County Courthouse on Monday at 9:00 a.m. as set forth in the schedule prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge.
- B. All parties shall, during this appearance, engage in final plea negotiations. In those cases where a plea agreement is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and schedule the plea.
- C. Plea offers shall expire at 5:00 p.m. on the Docket Appearance Date and will not be extended unless the defendant demonstrates a material change in circumstances or some other exceptional situation. Hiring of new counsel does not qualify as a material change or exceptional situation.
- D. The presiding General Sessions judge will hold Docket Appearance status conferences on cases that remain unresolved at 2:30 p.m. on the Monday of the Docket Appearance Date to assist the parties in resolving their cases. The Chief Administrative Judge shall assign a Circuit Court judge to preside over the Docket Appearance status conferences.
- E. Defendants who remain unrepresented on their Docket Appearance Date must be present in court throughout the following term. These defendants must appear for each successive term of court as required by their bond until their case is resolved.

# 6. GENERAL SESSIONS COURT PRACTICE

- A. A trial roster and a roll call roster shall be prepared for each term of General Sessions Court. For consecutive weeks, the roster may cover two (2) weeks of court. The rosters shall be prepared and published at least seven (7) business days prior to the term of court pursuant to § 1-7-330 of the South Carolina Code of Laws and will be posted on the Eighth Circuit Solicitor's web site (scsolicitor8.org), provided to the Chief Public Defender for Abbeville County, and to the Chief Administrative Judge.
- B. The Solicitor's Office shall set the order of trials and a representative of the Solicitor's Office shall meet with the Chief Administrative Judge and a representative from the Public Defender's Office no later than the Monday morning a week prior to the term of court to review the order of trials, as well as, the Court's plea, bond, and probation revocation schedule.
- C. All Motions for Continuance and requests for Orders of Protection shall be submitted to the presiding judge and Solicitor's Office no later than seven (7) days prior to the start of the court term for which the continuance or protection is sought.
- D. The Solicitor's Office shall provide, on a monthly basis, to the Chief Administrative Judge a list of all cases which are within thirty (30) days of their disposition dates.

E. Nothing in this Order shall be construed by this court or any other court as reason for a case to be judicially dismissed. This Order is intended to be strictly administrative in nature.

IT IS SO ORDERED.

Brooks P. Goldsmith

Chief Administrative Judge Eighth Judicial Circuit

Hancaster November 6 \_\_\_\_, South Carolina 2007

#### STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

#### IN THE COURT OF GENERAL SESSIONS

#### COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the attached Administrative Order (Attachment "A") signed by The Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Case Management Administrative Order is hereby adopted by this Court for the County of Berkeley General Sessions Court.

This Court hereby declares and orders that all General Sessions cases arising after October 1, 2006 will be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of this County, the following shall be done:

#### I. BOND HEARING

- A. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances at the time of the bond hearing. The defendant's attendance at the initial appearance hearing and second appearance hearing shall be made a condition of the defendant's bond. The dates of the initial appearance hearing and the second hearing shall be assigned in accordance with the schedule prepared and supplied by the Solicitor's Office.
- B. During the course of the bond hearing the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his or her right to a Preliminary Hearing. Should a hearing be desired, it must be requested, in writing, on or before the initial appearance date but no sooner than 5 days following the bond hearing.
- C. All General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for the appointment of counsel. Such screening will be done in a manner as prescribed by the Clerk of Court
- D. Magistrates and Municipal Judges shall transmit warrants to the Clerk of Court within fifteen (15) days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.

#### II. DISCOVERY

- A. All law enforcement agencies shall provide copies of General Sessions case reports, together with all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case file to the Solicitor's Office within thirty (30) days of the arrest of the defendant. If the case file remains incomplete thirty days after arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items to be provided when compiled.
- B. Defense discovery packets shall be prepared and provided by the Solicitors Office within forty-five (45) days of arrest to all attorneys that have filed a general letter of representation along with the appropriate discovery requests with the Solicitor's Office.
- C. Where applicable, the Solicitor's Office shall prepare a written plea offer for all General Sessions cases within forty-five (45) days of arrest. If a plea offer is to be made, that offer shall be communicated within forty-five (45) days of arrest to all attorneys that have filed a general letter of representation with the Solicitor's Office.

#### III. INITIAL APPEARANCE

- A. Approximately forty-five (45) days after arrest, the Initial Appearance hearing will be held on Fridays in a courtroom to be designated by the Clerk of Court at the Berkeley County Courthouse. A schedule of those defendants previously noticed for such hearing shall be prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk shall upon proper motion issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge for General Sessions Court.
- B. Defendants may be excused from Initial Appearance by filing letter with the Clerk of Court and providing a copy to the Solicitor's Office certifying that all matters to be resolved during Initial Appearance have been addressed by the prosecution and defense prior to the hearing. Such letter must be filed with the Clerk of Court and served on the Solicitor's office prior to the roll call to be conducted at the initial appearance hearing. Unless excused in advance, there shall be no continuances of Initial Appearance.



- C. When available, the Chief Administrative Judge for General Sessions Court or his judicial designee may hold status conferences during this appearance to assist the parties in resolving pretrial issues or pleas.
- D. The issues of legal representation shall be addressed at the Initial Appearance.
  - a. If a defendant qualified for a Public Defender, but has retained private counsel prior to the Initial Appearance date, then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor and Public Defender. The Public Defender shall be relieved of representation at that time when the filing and service have been completed.
  - b. If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Clerk of Court and a copy served upon the Solicitor's Office and the Public Defender on or before the initial appearance.
  - c. Unrepresented defendants may apply for a Public Defender at the initial appearance.
  - d. Defendants who remain unrepresented at the initial appearance must appear for their Second appearance hearing and remain in Court throughout that term until excused by the Court. These defendants must appear for each successive term of Court as required by their bond until their case is disposed.
  - e. In all cases where the defendant is represented by the Public Defender the Public Defender shall assess the case at the initial appearance for possible conflicts of interest and resolve those readily identifiable conflicts on that date. The Clerk shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant as to the identity of their attorney. The newly appointed counse! shall also be notified by the Clerk of Court.
- E. Issues of competency shall be addressed at the Initial Appearance. When appropriate, defense counsel shall move for a competency evaluation, and the state may consent to a competency evaluation of the subject defendant at the Initial Appearance. In the alternative, the State and defense may schedule a hearing to determine if a competency evaluation is necessary.



- F. In all cases where it is feasible to do so, at Initial Appearance the defendant and the State shall enter into negotiations concerning pleas and scheduling. Any plea offers tendered at the initial appearance must be accepted or rejected by the defendant's second appearance date.
- G. In order to be prepared to respond to the State's plea offer in a timely manner, all public defenders and conflict Court appointed counsel shall meet in person with their clients prior to the second appearance hearing for the purpose of discussing the State's plea offer and all other matters relating to the defendant's case. It is suggested that the public defender use the Initial appearance hearing to schedule appointments for this purpose.
- H. Prior to the Initial Appearance, the case will be assigned a disposition date approximately one hundred twenty (120) days from the date of the Initial Appearance. It is the objective of all parties to have every case concluded on or before its disposition date. Should the disposition date fall on a noncourt week, it will be extended until the end of the term of Court. Homicide and Criminal Sexual Conduct cases are an exception to this system and will not be assigned a disposition date.

#### IV. INDICTMENTS

- A. All General Sessions cases to be presented for indictment shall be presented to the Berkeley County Grand Jury within ninety (90) days in accordance with Rule 3 of the South Carolina Rules of Criminal Procedure. This Court recognizes that due to their nature or type, certain cases may not be prepared to go to the Grand Jury within ninety (90) days and grants an extension in those instances.
- B. In accordance with South Carolina law, no preliminary hearings will be held on indicted cases.

#### V. SECOND APPEARANCE

A. Approximately one hundred twenty (120) days from the date of arrest, the Second Appearance hearing will be held on Fridays at the Berkeley County Courthouse. A schedule of those defendants previously noticed for such hearing shall be prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk shall upon proper motion issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge for General Sessions Court.

- B. All parties shall, during this appearance, engage in final plea negotiations. In those cases where a plea agreement is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and schedule the plea.
- C. Plea offers shall expire at the end of the business day on the second appearance date and will be extended only at the sole discretion of the Solicitor's office.
- D. When necessary the Chief Administrative Judge for General Sessions Court or his judicial designee will be present to assist the parties with cases that are unresolved at the second appearance.
- E. Defendants who remain unrepresented on their Second appearance date must be present in Court throughout the following term. These defendants must appear for each successive term of Court as required by their bond until their case is disposed.

#### VI. GENERAL SESSIONS COURT PRACTICE

- A. A trial roster and a roll call roster shall be prepared for each term of General Sessions Court. For consecutive terms, the rosters may cover two terms of court. The rosters shall be prepared and published on the Solicitor's website at <u>www.scsolicitor9.org</u> at least ten (10) business days prior to the term of Court. A copy will also be provided to the Chief Public Defender for Berkeley County, and to the Chief Administrative Judge for General Sessions Court.
- B. The Solicitor's Office shall set the order of trials and a representative of the Solicitor's Office shall meet with a representative of the Public Defender's Office no later than the Monday morning a week before the term of court begins to review the order of trials as well as the Court's plea, bond and probation revocation schedule. It shall be the responsibility of all attorneys with clients on this docket to notify their clients that their case is scheduled for disposition.
- C. During a term of General Sessions Court all assigned solicitors and public defenders shall be present in the designated courtrooms no later than 9:00 a.m. for the morning session of court and 1:30 p.m. for the afternoon session of court, unless excused by the presiding judge.
- D. Nothing in this Order shall be construed by this Court or any other Court as a reason for a case to be judicially dismissed. This Order is intended to be administrative in nature.

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

# AND IT IS SO ORDERED!

R. MARILLEY DEVINIS, JR. Chief Administrative Judge Ninth Judicial Circuit Court of General Sessions

Moncks Corner, South Carolina

October <u>2</u>, 2006

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attachment A

# The Supreme Court of South Carolina

# ORDER

Judge R. Markley Dennis, Jr. has been designated Chief Judge for Administrative Purposes for the Ninth Judicial Circuit (Criminal) for the period July 2, 2006 through December 30, 2006 and submitted for approval the attached administrative orders establishing certain local rules for the processing of criminal cases in Berkeley County and Charleston County.

Pursuant to S.C. Const. Art V, §4, the administrative orders are hereby approved for use in Berkeley County and Charleston County.

IT IS SO ORDERED.

Jean ter Toa Chief Justice

October 2006 Columbia, South Carolina



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2017 JUN 12 AM 9:05

CLERN OF COURT

# The Supreme Court of South Carolina

# ORDER

The Chief Judge for Administrative Purposes for the Ninth Judicial Circuit

(Criminal) has submitted for approval the attached Administrative Order

establishing certain rules for the processing of criminal cases in Charleston

County.

Pursuant to S.C. Const. Art. V, Section 4, the Administrative Order is hereby approved for use in Charleston County.

AND IT IS SO ORDERED!

DONALD W. BEATTY Chief Justice

2017

Charleston, South Carolina

# STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON

### IN THE COURT OF GENERAL SESSIONS

#### AMENDED ADMINISTRATIVE ORDER

Pursuant to the authority vested in the Court by the attached Administrative Order (Attachment "A") signed by the Honorable Chief Justice of the Supreme Court of the State of South Carolina, Donald W. Beatty, the following Administrative Order is adopted by this Court for Charleston County.

The Administrative Order dated October 26, 2006, which has managed General Sessions charges moving through the system since October 1, 2006, is modified to address additional changes to the system. After March 31, 2017, the Solicitor will no longer determine the General Sessions Docket. This authority is voluntarily transferred by the Solicitor to the Chief Administrative Judge for General Sessions for an indefinite period of time as a pilot program in the Ninth Judicial Circuit.

The Court hereby declares and orders that all General Sessions cases in which an arrest is made after March 13, 2017, will be processed through the Court under the principles set forth in this Order. In accordance with the requirements of this system, the rules explained in this Order are hereby adopted.

The Court directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of the County, the following procedure is to be followed:

### A. BOND HEARING

- Magistrates and Municipal Judges are required to transmit warrants to the Charleston County Clerk of Court within fifteen (15) days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.<sup>1</sup>
- 2. A defendant will be served with a Notice of Initial Appearance at his or her bond hearing. The date of the Initial Appearance will be assigned in accordance with the schedule prepared and distributed by the Chief Administrative Judge. A defendant's attendance at the Initial Appearance will be made a condition of that defendant's bond and noted under Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form unless the Defendant is excused pursuant to paragraph (D)(2), below.
- 3. During the course of a bond hearing, the Magistrate or Municipal Judge shall inform the defendant, both orally and in writing, of his or her right to a Preliminary Hearing. Should the defendant desire a hearing, he or she must request it, in writing, on or before the Initial Appearance.
- 4. All General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for the appointment of counsel.

### **B. DISCOVERY**

- All law enforcement agencies shall provide copies of General Sessions case reports, together with all witness statements, video and audio recordings, photographs and diagrams, and any other material included in the law enforcement case file to the Solicitor's Office within thirty (30) days of a defendant's arrest. If the case file remains incomplete thirty (30) days after arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items to be provided when compiled.
- 2. Defense discovery packets shall be prepared and provided by the Solicitors Office within sixty (60) days of arrest to all attorneys that have filed a general letter of representation along with the appropriate discovery requests with the Solicitor's Office.

<sup>&</sup>lt;sup>1</sup> "Magistrates, municipal judges, and other officials authorized to issue warrants shall, in all cases within the jurisdiction of the Court of General Sessions, forward to the Clerk of the Court of General Sessions all documents pertaining to the case including, but not limited to, the arrest warrant and bond, within fifteen (15) days from the date of arrest in the case of an arrest warrant and date of issuance in the case of other documents. Transmittal shall be pursuant to procedures now or hereafter promulgated by the Office of South Carolina Court Administration." Rule 3(a), SCRCrimP.

- 3. All law enforcement agencies are required to forward the following to the Solicitor's Office within sixty (60) days of a warrant being issued: all existing case reports, investigative reports, and incident reports, as well as any other discovery. If the law enforcement agency fails to provide discovery within this deadline, the warrant(s) may be dismissed without prejudice by the Chief Administrative Judge for General Sessions or a designated Judicial Representative.
- 4. Notification shall be provided to a defendant or a defendant's attorney of record and his or her bondsman that the defendant is not required to appear at the Initial Appearance when the warrants are dismissed. If a warrant is dismissed for law enforcement's failure to provide discovery, that agency must petition the Chief Administrative Judge for General Sessions for authority to re-initiate charges with a new warrant. The requesting law enforcement agency must establish good cause for its initial failure to timely transmit discovery. Failure to present good cause will result in the refusal to issue a second warrant.
- 5. It is the intent of this Administrative Order that the Solicitor and defense attorneys exchange discovery as early in the process as possible. Accordingly, when feasible, defense attorneys and the State will enter into negotiations concerning pleas or other means of resolving the pending matter(s). This process should be initiated prior to the Status Conferences.

### C. PRELIMINARY HEARING

- 1. A Preliminary Hearing, if timely requested, will be held at the appropriate Court issuing the charge(s) against the defendant.
- 2. The Solicitor's Office will represent the State at all preliminary hearings.
- 3. Continuances of Preliminary Hearings may only be granted in extreme circumstances.
- 4. The defendant or his or her attorney must be present to be given a Preliminary Hearing. If a defendant has requested a hearing in a case involving an individual affiant, the failure of that affiant to appear and give testimony will result in the dismissal of the warrant if the defendant or his or her attorney appear and make the appropriate Motion.
- 5. A Preliminary Hearing, if desired, must be requested in writing on or before indictment or the Initial Appearance date.



### D. INITIAL APPEARANCE

- 1. Initial Appearances will be held at the Charleston County Judicial Center. Roll Call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue a Bench Warrant for any defendant who fails to appear and has not been excused by the Chief Administrative Judge for General Sessions. The Court will notify the Solicitor and defense counsel (if any) that a bench warrant has been issued.
- 2. Solicitors, Public Defenders, and appointed or retained counsel shall, upon assignment, appointment, or retention promptly file a general notice of representation or appearance with the Clerk of Court and serve notice upon all other counsel of record. All notices of representation must specify the warrant numbers and indictment numbers—if the defendant has already been indicted—for which the Solicitor, Public Defender or private counsel has been assigned, appointed, or retained. Once a notice of appearance has been duly filed, the counsel appointed or retained by defendant may be relieved from representation only by order of the Court.
- 3. In order to be properly excused a defendant must be represented by counsel who consents to waiving the Initial Appearance on an "Initial Appearance Waiver" form provided by the Clerk of Court. This form must be signed by a defendant, his or her counsel, and the solicitor handling the case. The form must be properly completed and filed with the Clerk of Court not less than five (5) days prior to the date scheduled for the Initial Appearance.
- 4. There will be no continuances of Initial Appearances.
- 5. The following issues will be addressed at a defendant's Initial Appearance:
  - a) Any issues regarding representation:
    - i. If a defendant qualifies for Court appointed counsel and has not retained private counsel before his or her Initial Appearance, the Public Defender will continue to represent the defendant.
    - ii. If a defendant qualifies for Court appointed counsel but has retained private counsel prior to his or her Initial Appearance, that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor's Office. The Public Defender will be relieved of representation at that time.
    - iii. If a defendant did not qualify for Court appointed counsel and private counsel has been retained, that attorney must file a letter of representation with the Clerk of Court and served on the Solicitor's Office.

- iv. An unrepresented defendant may apply for Court appointed counsel at his or her Initial Appearance. The Public Defender's office will take applications and if a defendant is approved, he or she will be assigned a Public Defender that day.
- v. A defendant who remains unrepresented at his or her Initial Appearance must appear at the Status Conference, which will be scheduled by the Clerk of Court and the date for which will be provided to the defendant at his or her Initial Appearance.
- b) Any mental health issues.
- c) Any issues related to the analysis of drugs or any other types of evidence.
- d) Any other issue that may affect the timing of the disposition of the criminal case including issues related to conflicts in representation.
- 6. In all cases where a defendant is represented by Court appointed counsel, the Public Defender will assess the case for possible conflicts of interest and resolve those conflicts readily identifiable. Upon determination of a conflict of interest the Public Defender shall prepare an order appointing the next attorney on the conflict list maintained by the Public Defender. The proposed order shall be transmitted to the Chief Administrative Judge. The Clerk of Court shall, upon receipt of the order, serve the newly appointed counsel with notice of the appointment and advise the defendant of his or her newly appointed attorney.
- 7. At the Initial Appearance, the case will be assigned to a one hundred eighty (180) day track. Cases involving Murder and Criminal Sexual Conduct are exempted from this track but should be resolved within one (1) year absent Court approved deviation. Any party may move for a deviation of the 180 day track due to the complex nature of the case or other unusual or extenuating circumstances.

### **E. INDICTMENTS**

1. All General Sessions cases to be presented for indictment, shall be presented to the Charleston County Grand Jury within ninety (90) days in accordance with Rule 3(c) of the South Carolina Rules of Criminal Procedure.<sup>2</sup> This Court

<sup>&</sup>lt;sup>2</sup> "Within ninety (90) days after receipt of an arrest warrant from the Clerk of Court, the solicitor shall take action on the warrant by (1) preparing an indictment for presentment to the grand jury, which indictment shall be filed with the Clerk of Court, assigned a criminal case number, and presented to the Grand Jury; (2) formally dismissing the warrant, noting on the face of the warrant the action taken; or (3) making other affirmative disposition in writing and filing such action with the Clerk of Court." Rule 3(c), SCRCrimP.

recognizes that due to their nature or type, certain cases may not be prepared to go to the Grand Jury within ninety (90) days and will grant an extension in those instances.

2. In accordance with South Carolina law, no Preliminary Hearings will be held on indicted cases.

### F. STATUS CONFERENCE

- 1. The Chief Administrative Judge or a Judicial Representative will conduct a Status Conference at the Charleston County Judicial Center. This conference will be scheduled by the Clerk of Court, and notice provided to defendants or their counsel in all active cases, approximately ninety (90) days from the date of arrest unless the case has been previously scheduled for a guilty plea or a Scheduling Order, as hereinafter provided, has been duly signed by the Chief Administrative Judge and filed with the Clerk of Court.
- 2. Notice of the time and place for the Status Conference will be sent to the defendant or his or her counsel and to the Solicitor. If the defendant is represented, counsel may appear for defendant. If the defendant is unrepresented, then the defendant must appear. If a defendant is unrepresented, the notice herein provided will be sent to the last address provided by a defendant. It is the sole responsibility of an unrepresented defendant to provide the Clerk of Court his or her current address. The Clerk of Court is authorized to issue a Bench Warrant for any defendant who fails to appear and has not been excused by the Chief Administrative Judge.
- 3. Parties shall be prepared to discuss the following matters at the Status Conference:
  - a) The possible simplification of the issues;
  - b) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
  - c) The need of expert witnesses and any time constraints associated;
  - d) Any discovery issues and whether both sides have fully complied with disclosure requirements of *Brady v. Maryland*, 373 U.S. 83 (1963) and the South Carolina Rules of Criminal Procedure;
  - e) Pending motions and the scheduling for disposition;
  - f) The possibility of a resolution of the case without the assistance of a jury;

g) Such other matters as may aid in the disposition of the case

4. If necessary, additional status conferences may be requested by either party at any time thereafter to aid in the resolution of a case.

### G. PLEA OFFERS

- 1. Prompt evaluation of cases and early plea negotiations assist the Court, and the parties resolving cases, in preparing the Trial Docket efficiently and accurately.
- 2. Prosecutors for the state should endeavor to extend plea offers in their cases and should do so not later than thirty (30) days prior to the defendant's Scheduling Conference. Plea offers shall be in writing and delivered to defense counsel or directly to pro se defendants.
- Likewise, the State's decision not to negotiate or extend a plea offer shall be communicated to the defense counsel or pro se defendants in writing at least thirty (30) days prior to the defendant's Scheduling Conference.
- 4. Defense attorneys have a duty to promptly communicate plea offers to their clients. If a defendant accepts a plea offer, a written acceptance signed by the defendant and his or her attorney shall be served on the Solicitor assigned to prosecute the case on or before the date of the defendant's Scheduling Conference.
- 5. A Defendant's attorney must affirm in the response to any plea offer that he or she has complied in every respect with the tenets of *Missouri v. Fry*, 566 U.S.133 (2012) and *Lafler v. Cooper*, 566 U.S. 156 (2102). If an attorney has not been able to comply with *Fry* and *Lafler*, by the offer's deadline, that attorney shall outline in writing, to the Chief Administrative Judge and the Solicitor, the reasons why he or she is not in compliance.
- 6. Nothing in this section prohibits plea negotiations or other negotiations from taking place prior to the deadlines for plea offers to be extended to a defendant.

### H. SCHEDULING CONFERENCE

1. Approximately one hundred fifty (150) days from the date of arrest, a hearing will be held at the Charleston Court Judicial Center. A schedule of those defendants previously noticed for such hearing shall be prepared by the Clerk of Court and provided to the Solicitor and Public Defender. Roll Call will be conducted as necessary to ensure attendance. The Clerk shall issue Bench Warrants for those defendants who fail to appear and have not been excused by the Chief Administrative Judge.



- 2. At the Scheduling Conference, the Court will inquire whether a matter is for plea or for trial. If the matter is for plea, the Court will assign a date and time for the plea hearing. All sentencing sheets and other paperwork must be completed by the parties prior to the day the matter is set for a plea hearing.
- 3. Plea offers shall expire at the end of the business day of the Scheduling Conference and will only be extended at the sole discretion of the Solicitor's Office.
- 4. If the plea negotiations are unsuccessful at the Scheduling Conference, the case will be scheduled for trial before one of the presiding General Sessions Judges. Except for good cause shown to the Chief Administrative Judge, the Chief Administrative Judge or his or her designated Judicial Representative must hear any plea taken after the case is scheduled for trial.
- 5. When necessary the Chief Administrative Judge or a Judicial Representative will be present to assist the parties with cases that are unresolved at the Scheduling Conference.
- 6. Cases may be resolved at any time prior to the specified guidelines.

### I. GENERAL DOCKET, TRIAL ROSTERS, AND CALL OF CASES FOR TRIAL

- 1. The Clerk of Court shall maintain:
  - a) A General Docket of all General Sessions cases filed in the Circuit Court;
  - b) A Jury Trial Roster of all cases transferred from the General Docket wherein the case is—by agreement of counsel, scheduling order, or expiration of time—deemed ready for jury trial; and
  - c) A Nonjury Docket of all nonjury matters including all motions filed in the Circuit Court.
  - 2. A case may not be called for trial until it has been transferred to the Jury Trial Roster. Cases shall be called for trial in the order in which they are placed on the Jury Trial Roster, unless the Court in a Scheduling Order has set a date certain for the trial, or, after the case has been set on the Jury Trial Roster, the court, upon motion, grants a continuance. Notwithstanding the foregoing, no action may be called for trial until one hundred eighty (180) days after the date of arrest unless all parties consent in writing.

- 3. A case may be moved from the General Docket to the Jury Trial Roster at any time by agreement of all counsel of record. If an agreement is reached, counsel shall notify the Clerk in writing and the Clerk shall immediately transfer the case to the Jury Trial Roster.
- 4. When a case is moved from the General Docket to the Jury Trial Roster, the Clerk shall notify counsel of record of the transfer, but publication of the Jury Trial Roster also shall be deemed notice of the automatic transfer.
- 5. Any party may request a scheduling order by filing a written motion for a scheduling order. Within ten (10) days of the filing of such motion that party shall file and serve a Response to the Request for a Scheduling Order which shall include:
  - a) All matters deemed relevant by counsel that may be raised in a Status Conference;
  - b) All discovery remaining to be completed;
  - c) Any other matter affecting the trial date; and
  - d) The date on which all pre-trial matters shall be completed and the case ready for trial.

The clerk shall promptly set the request for a Scheduling Order for a hearing before the Chief Administrative Judge to review the matter and, in its discretion, set a date on which the case is to be transferred to the Jury Trial Roster, and may set a date before which the case may not be called for trial or a date certain for trial. The Scheduling Order may be amended by a subsequent Chief Administrative Judge.

- 6. The Clerk shall immediately transfer all matters designated as nonjury matters from the General Docket to the Nonjury Docket. Likewise, any pre-trial motions filed in any case shall be immediately placed on the Nonjury Docket. Parties wishing to hear such motions shall serve and file a written motion stating with particularity the grounds therefor and setting forth the relief or order sought. The Chief Administrative Judge, in cooperation with the General Sessions Court Coordinator shall set the pre-trial motions that may be heard before trial on the Nonjury Docket for disposition. Motions may be scheduled for hearing at any time after the period for notice of the motion required by these rules.
- 7. At least thirty (30) days before each term of court, the General Sessions Court Coordinator for the Clerk of Court will prepare and publish a docket of all cases that are subject to call during the upcoming court term. Making the docket available in the Clerk of Court's Office or placement on the Clerk's

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Internet site shall effect publication. It is the responsibility of all attorneys who have clients on this docket to notify their clients that their case is scheduled for disposition.

- 8. From the chronological roster described in paragraph 7, above, the Chief Administrative Judge in conjunction with the General Session's Court Coordinator, shall prepare a Jury Trial Docket for the upcoming term of court. The Jury Trial Docket shall consist of a sufficient number of cases for each day of the term of court, but the Trial Docket must not consist of more than twenty (20) cases for trial each term of Court. However, when multiple judges are assigned to a term of court the Chief Administrative Judge may adjust the Jury Trial Docket accordingly.
- 9. The cases shall be called for trial in the order in which they are placed on the Jury Trial Roster, unless the court in a Scheduling Order has set a date certain for the trial, or, after the case has been set on the Jury Trial Docket, the Court, upon motion grants a continuance pursuant to Rule 7 of the South Carolina Rules of Criminal Procedure.<sup>3</sup> Ordinarily, such continuances shall be only until the next term of court. Each scheduled calendar week of circuit court shall constitute a separate term of court. The Solicitor's Office will be allowed ten percent (10%) of the trial docket slots for priority cases.

### J. DEFENDANT'S FAILURE TO APPEAR

- Ninety (90) days after a Bench Warrant is issued for a defendant who fails to appear, the Solicitor may file a change of status form with the Clerk of Court. Once the requisite form has been filed, the case may be administratively transferred to FAILURE TO APPEAR status and removed from the Jury Trial Roster. The Clerk of Court shall transmit this information to the South Carolina Judicial Department, which shall remove the case from its list of active cases.
- 2. In all cases where a defendant is arrested pursuant to a Bench Warrant for failure to appear, the case may be transferred from the FAILURE TO APPEAR status, upon written request of the Solicitor, to the Clerk of Court, who shall restore the case to pending status and transmit this information to

<sup>&</sup>lt;sup>3</sup> "The chief administrative judge for General Sessions in each circuit shall have exclusive authority to grant continuances of cases scheduled for trial or expected to be called for trial. Continuances may be granted by a presiding judge during a term of court at which he presides only upon written request by counsel, and any order granting a continuance shall be in writing, shall be made only upon a showing of good and sufficient legal cause and shall be filed forthwith with the clerk of court. A continuance granted by a presiding judge cannot extend beyond the next term of court without the approval of the chief administrative judge." Rule 7, SCRCrimP.

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the South Carolina Judicial Department, which shall restore the case to its list of active cases.

- 3. Once restored, the case shall be returned to the Jury Trial Roster of pending cases based on the date of the original filing, not the date of the defendant's arrest for failure to appear.
- 4. Either party may, after restoration, request a status conference with the Chief Administrative Judge to discuss scheduling the case for trial.

### K. GENERAL SESSIONS COURT PRACTICE

- 1. Presiding Judges will be available from 9:00 a.m. to 9:30 a.m. on Tuesday through Friday of each General Sessions Court term to hold pre-trial with attorneys for the State and the defense. Either party may request conferences.
- 2. During a term of General Sessions Court, all assigned Solicitors and Public Defenders for a Plea Term shall be present in the designated courtrooms no later than thirty (30) minutes before the time scheduled for the morning and afternoon sessions unless excused by the presiding judge.
- 3. The Clerk of Court will create the position(s) necessary to help facilitate the implementation of this Administrative Order.
- 4. The Chief Administrative Judge will have the right to require status conferences on all cases that have passed the deadline for disposal on such forms as may be required by the Court.
- 5. Nothing in this Order shall be construed by this Court or any other Court as a reason for a case to be judicially dismissed. This Order is intended to be administrative in nature.

### AND IT IS SO ORDERED!

R. MARKLEY DENNIS, JR. Chief Administrative Judge Ninth Judicial Circuit Court of General Sessiofis

Charleston, South Carolina pni 12-2017



COUNTY OF

#### TENTH JUDICIAL CIRCUIT STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS ANDERSON )

# **COOPERATIVE CASE MANAGEMENT** ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the Administrative Order issued by the Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court, the following Cooperative Case Management Administrative Order is hereby adopted by this Court for the County of Anderson.

This Court hereby declares and orders that all General Sessions cases arising after January 1, 2008 will be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that each General Sessions case arising before the various Magistrates and Municipal Courts in the 10<sup>th</sup> Circuit, the following shall be done:

### **GENERAL MATTERS**

1. Upon receipt of warrant transmittal, warrant, bond forms, and other documents, the Clerk of Court shall enter the information (Ex: Defendant information, Bondsman and bond information, warrant information, etc.) into the Statewide Case Management System, to be available for viewing and sharing with Prosecutors Case Management System (PCMS) and all authorized users.

2. The Clerk of Court or her/his designee shall attend and provide appropriate staffing for all scheduled General Sessions proceedings.

3. The Clerk of Court shall enter all information daily relating to the disposition, status change (bench warrants, bond changes, etc) of each case into the Statewide Case Management System, to be available for viewing and sharing with Prosecutors Case Management System (PCMS) and all authorized users.

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

### **BOND HEARINGS**

1. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances at the time of the bond hearing. The defendant's attendance at the Initial Appearance Date and all other appearances shall be made a condition of the defendant's bond. The date of the Initial Appearance shall be assigned in accordance with the schedule prepared by the Solicitor's Office.

2. During the course of the bond hearing, the Magistrates or Municipal Judge shall inform the defendant in writing and orally of his/her right to a Preliminary Hearing and provide the defendant with the SCCA/512 (Rev. 9/2006) form to request the preliminary hearing.

3. At the bond hearing, all General Sessions defendants shall complete a DEFENSE OF INDIGENTS ACT FORM 1 (Rev. 9/2006). Defendants will be notified that within 48 hours of release from jail they must pay a non-refundable \$40.00 fee to the Clerk of Court and schedule an appointment with the Public Defender's office for screening or retain private counsel, which representation, either public or private, prior to the Initial Appearance, shall be a condition of bond.

4. The Public Defender will schedule screening within one week of request utilizing DEFENSE OF INDIGENT ACT FORM 2 (SCCA DIA Form 2, 7/2007) to determine if defendant qualifies for appointment of counsel.

5. The Clerk of Court shall forward weekly a list of all defendants who paid the screening fee to the Public Defender and the Solicitor's office (clerkinfo@soli10th.com). The Public Defender's office shall notify in writing or email to (publicdefenderinfo@soli10th.com) their representation of new clients to the Clerk of Court and Solicitor.

6. The Public Defender will meet with all incarcerated defendants within three (3) working days of the defendant's arrest. The Public Defender will remain the attorney of record on all incarcerated defendants unless notification is received that private counsel has been retained.

7. Magistrates and Municipal Judges shall transmit warrants to the Clerk of Court within fifteen (15) days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedures.

8. Magistrates and Municipal Judges shall give defendant a list of standing Special Conditions of General Sessions Bonds for Anderson County (Attachment 1) and transmit signed copy to Clerk of Court for filing and forwarding to Solicitor's office.

9. Magistrates and Municipal Judges shall complete such forms as required by the S.C. Court Administration to include either Bail Bond Form 1 (SCCA 510, Rev. 9/2006) or Bail Bond 2 (SCCA 511, Rev. 9/2006).

### PRELIMINARY HEARINGS

1. Upon receipt of a timely request, magistrate courts shall schedule a preliminary hearing pursuant to §17-23-150 of S.C. Laws. The Magistrate shall coordinate with all arresting agencies the procedures necessary to ensure proper notification of officers, victims, defense attorneys, and the Solicitor's office for all hearing dates, cancellations, and waivers.

2. Defense attorneys must notify the magistrate court coordinator of any requests for continuances within 5 working days of the scheduled hearing. If the defense attorney fails to do so, the hearing will not be rescheduled and the sitting magistrate at the scheduled hearing shall waive the hearing.

3. If a case is indicted before a preliminary hearing is held, the hearing will be cancelled and the magistrate court coordinator will notify all law enforcement and the defense attorney. The Solicitor's office will notify all victims of the cancellation.

#### DISCOVERY

1. All law enforcement agencies shall provide copies of General Sessions case reports including but not limited to: incident reports, all witness statements, two copies of video and audio tapes, 911 recordings, two cds of photographs, diagrams, dates, times, evidence sheets, type of evidence and date transmitted to SLED or other labs for processing, and any other material related to the case. (Information can be submitted on the most efficient media format -- Ex: cd, video tape, email (casejacketinfo@soli10th.com), or print.

2. This information shall be forwarded to the Solicitor's Office within twenty-one (21) days of the arrest of a defendant. If the file is incomplete at that time, law enforcement shall provide all parts of the report available along with a listing of the items for which law enforcement is waiting.

3. All discovery requests on cases prosecuted by the Solicitor's Office must be submitted directly to the Solicitor's Office by defense counsel and not to the arresting agency. Law Enforcement agencies are prohibited from disseminating discovery on all cases prosecuted by the Solicitor's Office.

4. The Solicitor's Office shall prepare defense discovery packets on all General Session cases and provide them based on the SC Criminal Rules of Procedure.

### Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

### INITIAL APPEARANCE DATE

1. The Initial Appearance will be held at the Solicitor's Office on the 2nd Floor of the Anderson County Courthouse. Defendants will be notified by the bonding magistrate in writing of their Initial Appearance date. The Solicitor's office shall furnish Magistrates and city recorders with the Initial Appearance schedule. Initial Appearance dates shall be held within 45 days of the filing date of the warrants.

2. The Clerk of Court is authorized to issue bench warrants subject to South Carolina law for those defendants who fail to appear for their Initial Appearance Date when not excused by the Solicitor's Office.

3. The issues of legal representation that have not been addressed before the Initial Appearance date will be conducted at this time.

4. When a defendant has retained private counsel, the private attorney must file a general notice of representation with the Clerk of Court and forward a copy to the Solicitor prior to the Initial Appearance date. Upon receipt of notification of representation, any previously appointed public defender is relieved of representation.

5. Defendants, who have failed to apply for a Public Defender nor retained private counsel, as required at their Bond Hearing, are subject to bond revocation on the Initial Appearance date.

6. At the Initial Appearance, the case shall be assigned to one of three dispositional tracks. These tracks will be 180, 270 and 365 days (see attached Form 2). Assignment of cases to a track is the responsibility of the Solicitor's Office, and is done at the sole discretion of the Solicitor's Office. It is the objective of all parties to have every case concluded on or before its disposition date. Should the disposition date fall on a non-court week, it shall be extended until the end of the next term of court. Homicide, criminal sexual conduct with minors and other criminal sexual conduct cases and such other cases deemed by the Solicitor to be especially time consuming are an exception to this system and will not be assigned a disposition date.

7. The length of the track in which a case is placed determines the deadline by which a case must be disposed. The date is calculated from the Initial Appearance Date.

### **CLIENT CONFERENCES**

1. All counsel must meet with their clients in a timely manner to discuss a potential plea and other matters so counsel can respond to any plea offers from the State and communicate any requests for a jury trial.

118 Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

2. The Public Defender shall schedule client conferences with appointed defendants within twenty-one days of notification of appointment.

3. During the client conference, the public defender shall assess any conflicts of interest and resolve them at that time. If a conflict arises, the Public Defender will notify the Clerk of Court who will assign the next attorney on the conflict list and notify the defendant, assigned attorney, Public Defender, and the Solicitor.

4. Issues of competency shall also be addressed during the client conference. When appropriate, defense counsel shall move for a competency evaluation and the State may consent. In the alternative, the State and Defense may schedule a hearing to determine if an evaluation is necessary.

5. The State and defense shall have ongoing negotiations concerning pleas and scheduling of pleas so as to move cases timely, with a priority on disposing of jail cases.

6. Solicitor's office staff will be available, by phone or email, to answer defense counsel questions that arise at conferences.

### INDICTMENTS

1. All General Sessions cases should be presented to the Grand Jury in accordance with Rule 3 of the S.C. Rules of Criminal Procedure. This Court recognizes that certain cases, due to their nature, may not be timely presented and will grant extensions allowed under Rule 3 (d).

2. In accordance with South Carolina law, no preliminary hearing will be held on cases that have been indicted.

### DOCKET APPEARANCE DATE

1. The Docket Appearance shall occur in the county courthouse no later than 90 days after the Initial Appearance date. All plea offers shall be made, in writing, no later than thirty (30) days prior to the Docket Appearance Date. The defendant and counsel shall appear and engage in negotiations with the Solicitor's office. If a plea agreement is reached, the parties shall prepare necessary paperwork, obtain necessary signatures, and schedule a plea date.

2. On cases where no agreement can be reached, the cases will be scheduled for trial by the Solicitor on the next available term of General Sessions Court.

### GENERAL SESSIONS COURT PRACTICE

1. A trial docket shall be prepared by the Solicitor for each term of General Sessions Grutt The dockets shall be prepared and published via website ten (10) business days prior And the dockets shall be prepared and published via website ten (10) business days prior 119 to the term of court. Dockets shall be published on the 10<sup>th</sup> Circuit Solicitor's Office website www.soli10th.com. with a minimum of ten (10) and a maximum of twenty-five (25) actual trials being set for each trial judge.

2. The Solicitor's Office shall set the order of trials and the trials shall be called in the order published subject to the general supervision of the trial court.

3. Bond hearings and Motions shall be scheduled through the Solicitor's Office and set for the next available term of court.

4. All motions for continuance, orders of protections, etc. must be submitted to the presiding Judge and Solicitor within seven (7) days of the court term. The Court will endeavor to hear and rule on these motions in a timely manner so as to cause as little disruption to the court schedule as possible.

5. Nothing in this order shall be construed by this Court or any other as a reason for a case to be judicially dismissed. This order is intended to be strictly administrative in nature with the sole intent of moving criminal cases through the system as quickly as possible.

6. Conflicts arising from the implementation or interpretation of this order shall be resolved through a meeting with the parties involved and the Chief Administrative Judge.

#### AND, IT IS SO ORDERED.

ALEXANDER S. MACAULAY Chief Judge for Administrative Purpose

J. C. NICHØLSON, JR., Circuit Judge

J. CORDELL MADDOX, JR., Circuit Judge

January 23, 2008 Anderson, South Carolina

### SPECIAL CONDITIONS GENERAL SESSIONS BONDS

## \* DEFENDANTS WHO FAIL TO COMPLY WITH SPECIAL CONDITIONS \*

## \*\*\* WILL HAVE A BENCH WARRANT ISSUED FOR THEIR ARREST \*\*\*

1. All General Sessions Defendants shall make application for a Public Defender at the Clerk of Court Office on the 1st floor of the Anderson County Courthouse by paying a \$40.00 (forty dollar) non-refundable fee within 48 hours of release from jail or retain private counsel within the said 48 hours.

2. Defendant shall within 24 hours of paying application fee at Clerk of Court's office contact Public Defender's office at 864.260.4048 and schedule an appointment for screening.

3. Defendants who are incarcerated will be contacted by the Public Defender's office in jail within 3 working days of their arrest. These defendants will be represented by the Public Defender unless and until notified in writing that private counsel has been retained.

4. Defendants that choose to obtain private counsel shall notify the Solicitor's Office by furnishing a letter of representation issued by their attorney within 96 hours of their release from jail.

5. Defendant will be notified of initial appearance date by the Solicitor's office within 45 days from the filing date of the case.

6. Defendant is required to immediately notify the Solicitor's office of any changes in address, phone numbers, etc. or a bench warrant may be issued for your arrest.

7. Defendants must comply with all other conditions required by bonding magistrate.

Defendant

Bonding Magistrate

Date

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

# <u>TRACK ASSIGNMENTS</u> <u>and</u> BREAKDOWN OF TRACKS:

180 Days: Misdemeanors & F felonies
270 Days: Felonies C, D, & E
365 Days: Felonies A & B

# **EXEMPTIONS:**

Murder and all Criminal Sexual Conduct cases and all cases deemed by the Solicitor as complex and time-consuming in nature are exempt from the above tracks. 2008-03-28-01

# The Supreme Court of South Carolina

### ORDER

The Honorable Alexander S. Macaulay, Chief Judge for Administrative Purposes for the Tenth Judicial Circuit for the period of January 6, 2008 through July 5, 2008, submitted for approval the attached administrative order establishing certain local rules for the processing of criminal cases in Oconee County. Therefore,

Pursuant to the provisions of S.C. CONST. Art. V, §4, the Administrative Order is hereby approved for use in Oconee County.

IT IS SO ORDERED.

<u>s/Jean Hoefer Toal</u> Jean Hoefer Toal, Chief Justice

March 28, 2008 Columbia, South Carolina

To obtain a copy of the attachment to this order, please call Michelle Owen, Court Administration, (803) 734-1800.

### STATE OF SOUTH CAROLINA ) COUNTY OF OCONEE )

### TENTH JUDICIAL CIRCUIT IN THE COURT OF GENERAL SESSIONS

FILED OCONEE, SC SALLIE C. SMITH CLERK OF COURT

### **COOPERATIVE CASE MANAGEMENT** ADMINISTRATIVE ORDER

2008 MAR 14 A 3: 29

Pursuant to the authority vested in this Court by the Administrative Order issued by the Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court, the following Cooperative Case Management Administrative Order is hereby adopted by this Court for the County of Oconee.

This Court hereby declares and orders that all General Sessions cases arising after January 1, 2008 will be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that each General Sessions case arising before the various Magistrates and Municipal Courts in the 10<sup>th</sup> Circuit, the following shall be done:

### **GENERAL MATTERS**

1. Upon receipt of warrant transmittal — warrant, bond forms, and other documents, the Clerk of Court shall enter the information (Ex: Defendant information, Bondsman and bond information, warrant information, etc.) into the Statewide Case Management System, to be available for viewing and sharing with Prosecutors Case Management System (PCMS) and all authorized users.

2. The Clerk of Court or her/his designee shall attend and provide appropriate staffing for all scheduled General Sessions proceedings.

3. The Clerk of Court shall enter all information daily relating to the disposition, status change (bench warrants, bond changes, etc.) of each case into the Statewide Case Management System, to be available for viewing and sharing with Prosecutors Case Management System (PCMS) and all authorized users.

### **BOND HEARINGS**

1. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances at the time of the bond hearing. The defendant's attendance at the Initial Appearance Date and all other appearances shall be made a condition of the defendant's bond. The date of the Initial Appearance shall be assigned in accordance with the schedule prepared by the Solicitor's Office.

2. During the course of the bond hearing, the Magistrates or Municipal Judge shall inform the defendant in writing and orally of his/her right to a Preliminary Hearing and provide the defendant with the SCCA/512 (Rev. 9/2006) form to request the preliminary hearing.

3. At the bond hearing, all General Sessions defendants shall complete a DEFENSE OF INDIGENTS ACT FORM 1 (Rev. 9/2006). Defendants will be notified that within 48 hours of release from jail they must pay a non-refundable \$40.00 fee to the Clerk of Court and schedule an appointment with the Public Defender's office for screening or retain private counsel, which representation, either public or private, prior to the Initial Appearance, shall be a condition of bond.

4. The Public Defender will schedule screening within one week of request utilizing DEFENSE OF INDIGENT ACT FORM 2 (SCCA DIA Form 2, 7/2007) to determine if defendant qualifies for appointment of counsel.

5. The Clerk of Court shall forward weekly a list of all defendants who paid the screening fee to the Public Defender and the Solicitor's office (<u>occlerkinfo@soli10th.com</u>). The Public Defender's office shall notify in writing or email to (<u>ocpublicdefenderinfo@soli10th.com</u>) their representation of new clients to the Clerk of Court and Solicitor.

6. The Public Defender will meet with all incarcerated defendants within three (3) working days of the defendant's arrest. The Public Defender will remain the attorney of record on all incarcerated defendants unless notification is received that private counsel has been retained.

7. Magistrates and Municipal Judges shall transmit warrants to the Clerk of Court within fifteen (15) days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedures.

8. Magistrates and Municipal Judges shall give defendant a list of standing Special Conditions of General Sessions Bonds for Oconee County (Attachment 1) and transmit signed copy to Clerk of Court for filing and forwarding to Solicitor's office.

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

9. Magistrates and Municipal Judges shall complete such forms as required by the S.C. Court Administration to include either Bail Bond Form 1 (SCCA 510, Rev. 9/2006) or Bail Bond 2 (SCCA 511, Rev. 9/2006).

### **PRELIMINARY HEARINGS**

1. Upon receipt of a timely request, magistrate courts shall schedule a preliminary hearing pursuant to S.C. Code Ann. §17-23-150 (2003). The Magistrate shall coordinate with all arresting agencies the procedures necessary to ensure proper notification of officers, victims, defense attorneys, and the Solicitor's office for all hearing dates, cancellations, and waivers.

2. Defense attorneys must notify the magistrate court coordinator of any requests for continuances within 5 working days of the scheduled hearing. If the defense attorney fails to do so, the hearing will not be rescheduled and the sitting magistrate at the scheduled hearing shall waive the hearing.

3. If a case is indicted before a preliminary hearing is held, the hearing will be cancelled and the magistrate court coordinator will notify all law enforcement and the defense attorney. The Solicitor's office will notify all victims of the cancellation.

### DISCOVERY

1. All law enforcement agencies shall provide copies of General Sessions case reports including but not limited to: incident reports, all witness statements, two copies of video and audio tapes, 911 recordings, two cds of photographs, diagrams, dates, times, evidence sheets, type of evidence and date transmitted to SLED or other labs for processing, and any other material related to the case. (Information can be submitted on the most efficient media format -- Ex: cd, video tape, email (occasejacketinfo@soli10th.com), or print.

2. This information shall be forwarded to the Solicitor's Office within twenty-one (21) days of the arrest of a defendant. If the file is incomplete at that time, law enforcement shall provide all parts of the report available along with a listing of the items for which law enforcement is waiting.

3. All discovery requests on cases prosecuted by the Solicitor's Office must be submitted directly to the Solicitor's Office by defense counsel and not to the arresting agency. Law Enforcement agencies are prohibited from disseminating discovery on all cases prosecuted by the Solicitor's Office.

4. The Solicitor's Office shall prepare defense discovery packets on all General Session cases and provide them based on the SC Criminal Rules of Procedure.

### **INITIAL APPEARANCE DATE**

1. The Initial Appearance will be held at the Solicitor's Office on the 1st Floor of the Oconee County Courthouse. Defendants will be notified by the bonding magistrate in writing of their Initial Appearance date. The Solicitor's office shall furnish Magistrates and city recorders with the Initial Appearance schedule. Initial Appearance dates shall be held within 45 days of the filing date of the warrants.

2. The Clerk of Court is authorized to issue bench warrants subject to South Carolina law for those defendants who fail to appear for their Initial Appearance Date when not excused by the Solicitor's Office.

3. The issues of legal representation that have not been addressed before the Initial Appearance date will be conducted at this time.

4. When a defendant has retained private counsel, the private attorney must file a general notice of representation with the Clerk of Court and forward a copy to the Solicitor. Upon receipt of notification, any previously appointed public defender is relieved of representation.

5. Defendants, who have failed to apply for a Public Defender nor retained private counsel, as required at their Bond Hearing, are subject to bond revocation on the Initial Appearance date.

6. At the Initial Appearance, the case shall be assigned to one of three dispositional tracks. These tracks will be 180, 270 and 365 days (see attached Form 2). Assignment of cases to a track is the responsibility of the Solicitor's Office, and is done at the sole discretion of the Solicitor's Office. It is the objective of all parties to have every case concluded on or before its disposition date. Should the disposition date fall on a non-court week, it shall be extended until the end of the next term of court. Homicide, criminal sexual conduct with minors and other criminal sexual conduct cases and such other cases deemed by the Solicitor to be especially time consuming are an exception to this system and will not be assigned a disposition date.

7. The length of the track in which a case is placed determines the deadline by which a case must be disposed. The date is calculated from the Initial Appearance Date.

### **CLIENT CONFERENCES**

1. All counsel must meet with their clients in a timely manner to discuss a potential plea and other matters so counsel can respond to any plea offers from the State and communicate any requests for a jury trial.

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

2. The Public Defender shall schedule client conferences with appointed defendants within twenty-one days of notification of appointment.

3. During the client conference, the public defender shall assess any conflicts of interest and resolve them at that time. If a conflict arises, the Public Defender will notify the Clerk of Court who will assign the next attorney on the conflict list and notify the defendant, assigned attorney, Public Defender, and the Solicitor.

4. Issues of competency shall also be addressed during the client conference. When appropriate, defense counsel shall move for a competency evaluation and the State may consent. In the alternative, the State and Defense may schedule a hearing to determine if an evaluation is necessary.

5. The State and defense shall have ongoing negotiations concerning pleas and scheduling of pleas so as to move cases timely, with a priority on disposing of jail cases.

6. Solicitor's office staff will be available, by phone or email, to answer defense counsel questions that arise at conferences.

### **INDICTMENTS**

1. All General Sessions cases should be presented to the Grand Jury in accordance with Rule 3 of the S.C. Rules of Criminal Procedure. This Court recognizes that certain cases, due to their nature, may not be timely presented and will grant extensions allowed under Rule 3 (d).

2. In accordance with South Carolina law, no preliminary hearing will be held on cases that have been indicted.

### **DOCKET APPEARANCE DATE**

1. The Docket Appearance shall occur in the county courthouse no later than 90 days after the Initial Appearance date. The defendant and counsel shall appear and engage in negotiations with the Solicitor's office. If a plea agreement is reached, the parties shall prepare necessary paperwork, obtain necessary signatures, and schedule a plea date.

2. On cases where no agreement can be reached, the cases will be scheduled for trial by the Solicitor on the next available term of General Sessions Court.

### **GENERAL SESSIONS COURT PRACTICE**

1. A trial docket shall be prepared by the Solicitor for each term of General Sessions Court. The dockets shall be prepared and published via website ten (10) business days prior to the term of court. Dockets shall be published on the 10<sup>th</sup> Circuit Solicitor's Office website <u>www.ocsoli10th.com</u> with a minimum of three (3) and a maximum of fifteen (15) actual trials being set for each trial judge..

2. The Solicitor's Office shall set the order of trials and the trials shall be called in the order published subject to the general supervision of the trial court.

3. Bond hearings and Motions shall be scheduled through the Solicitor's Office and set for the next available term of court.

4. All motions for continuance, orders of protections, etc. must be submitted to the presiding Judge and Solicitor within seven (7) days of the court term. The Court will endeavor to hear and rule on these motions in a timely manner so as to cause as little disruption to the court schedule as possible.

5. Nothing in this order shall be construed by this Court or any other as a reason for a case to be judicially dismissed. This order is intended to be strictly administrative in nature with the sole intent of moving criminal cases through the system as quickly as possible.

6. Conflicts arising from the implementation or interpretation of this order shall be resolved through a meeting with the parties involved and the Chief Administrative Judge.

#### AND, IT IS SO ORDERED.

ALEXANDER S. MACAULAY Chief Judge for Administrative Purposes

J. C. NICHOLSON, JR., Circuit Judge

J. CORDELL MADDOX, JR., Circuit Judge

FILED OCUP SALLIE C. CLERK OF 2008 MAR 14

> February 22, 2008 Walhalla, South Carolina

### SPECIAL CONDITIONS GENERAL SESSIONS BONDS

### \* DEFENDANTS WHO FAIL TO COMPLY WITH SPECIAL CONDITIONS \*

### \*\*\* WILL HAVE A BENCH WARRANT ISSUED FOR THEIR ARREST \*\*\*

1. All General Sessions Defendants shall make application for a Public Defender at the Clerk of Court Office on the 1st floor of the Oconee County Courthouse by paying a \$40.00 (forty dollar) non-refundable fee within 48 hours of release from jail or retain private counsel within the said 48 hours.

2. Defendant shall within 24 hours of paying application fee at Clerk of Court's office contact Public Defender's office at 864.260.4048 and schedule an appointment for screening.

3. Defendants who are incarcerated will be contacted by the Public Defender's office in jail within 3 working days of their arrest. These defendants will be represented by the Public Defender unless and until notified in writing that private counsel has been retained.

4. Defendants that choose to obtain private counsel shall notify the Solicitor's Office by furnishing a letter of representation issued by their attorney within 96 hours of their release from jail.

5. Defendant will be notified of initial appearance date by the Solicitor's office within 45 days from the filing date of the case.

6. Defendant is required to immediately notify the Solicitor's office of any changes in address, phone numbers, etc. or a bench warrant may be issued for your arrest.

7. Defendants must comply with all other conditions required by bonding magistrate.

Defendant

**Bonding Magistrate** 

Date

Attachment 1

# TRACK ASSIGNMENTS and BREAKDOWN OF TRACKS:

180 Days:	Misdemeanors & F felonies
270 Days:	Felonies C, D, & E
365 Days:	Felonies A & B

## **EXEMPTIONS:**

Murder and all Criminal Sexual Conduct cases and all cases deemed by the Solicitor as complex and time-consuming in nature are exempt from the above tracks.

Attachment 2

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

# The Supreme Court of South Carolina

### ORDER

The Honorable R. Knox McMahon, Chief Judge for Administrative Purposes for the Eleventh Judicial Circuit (Criminal) for the period of July 1, 2007 through January 5, 2008 submitted for approval the attached Administrative Order establishing certain local rules for the processing of criminal cases in Lexington County. Therefore,

Pursuant to the provisions of S.C. CONST. Art. V, §4, the Administrative Order is hereby approved for use in Lexington County.

IT IS SO ORDERED.

December 2007 Columbia, South Carolina

Jean Hoefer Toal Chief Justice Included in SCCPC's August 15, 2018 letter to the House Oversight Committee

# STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

### IN THE COURT OF GENERAL SESSIONS

### EXPEDITED CASE MANAGEMENT SYSTEM ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the attached Administrative Order issued by the Honorable South Carolina Supreme Court Chief Justice Jean Toal, the following Expedited Case Management System Administrative Order is hereby adopted by this Court for the General Sessions Court of Lexington County.

This Court hereby declares and orders that all General Sessions cases arising or pending on January 1, 2008, shall be processed through the Court under the principles of the Expedited Case Management System. In accordance with the requirements of this system, the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of this County, the following shall be done:

### I. ARREST WARRANTS & CDR CODES

- A. Warrants shall be filled out completely and correctly. The section in the upper left hand corner that identifies the defendant shall be completed at the time the warrant is obtained from the Magistrate or Municipal Judge. This information includes, but is not limited to, defendant's correct full name, complete address, social security number, date of birth, sex, race, height, weight and any other information that is applicable. This information shall be added to the original warrant at the bond hearing should the information be unavailable at the time of the issuance of the warrant. Incomplete warrants will be returned by the Solicitor's office to the issuing agency.
- B. Each citizen's warrant shall be accompanied by a detailed incident report and investigation from a law enforcement agency. This incident report shall be presented to the Magistrate or Municipal Judge prior to the issuance of the warrant. Said incident report shall be attached to the warrant and transmitted to the Clerk of Court's office. The Clerk of Court shall transmit the warrant and the incident report to the Solicitor's office pursuant to Rule 3 (b) of the South Carolina Rules of Criminal Procedure. An arrest warrant shall not be issued unless there has been an investigation by a law enforcement agency.

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C. Each charge has a CDR offense code assigned by the South Carolina Court Administration and provided to the Magistrate and the Municipal Judges. Each warrant shall reflect the current CDR offense code number from Court Administration on the face of the warrant in the space provided.

### II. BOND HEARING

- A. The Magistrate or Municipal Judge shall serve the defendant with a Mandatory Court Appearance and Appointed or Retained Attorney Form (see attached Form 1) at the time of the bond hearing. The defendant's attendance at the Initial Appearance shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. The date of the Initial Appearance shall be assigned in accordance with the schedule prepared and supplied by the Solicitor's Office.
- B. The bond paperwork shall be properly completed by the Judge setting the bond, including, but not limited to, the date and time of Initial Appearance, complete address and telephone number of the defendant, social security number, and the address and telephone number of the bondsman. Should a defendant have a case in General Sessions Court and any lower court simultaneously, then the bond paperwork shall reflect the appearances for both courts, along with the date and time, on the face of bond.
- C. The following restrictions shall appear on the bond paperwork:
  - 1. The defendant shall appear for General Sessions Court Initial Appearance and all other Court dates.
  - 2. <u>A further condition of bond is</u>: if the Public Defender is appointed, each defendant shall appear at the Clerk of Court's office to pay the \$40 application fee for the Public Defender within 15 days from the date of release.
  - 3. Such "other conditions" shall appear on the bond as is appropriate.
  - 4. The Defendant shall immediately notify the Solicitor's Office, in writing, of any change in address and/or telephone numbers, or change of attorneys.
- D. If a defendant is given a personal recognizance bond, there must be a complete address, at least two (2) contact telephone numbers, and one

(1) alternate address and telephone number of the nearest relative listed on the bond paperwork.

- E. During the course of the bond hearing, the Magistrate or Municipal Judge shall inform the defendant, in writing and orally, of his or her right to a Preliminary Hearing as required by Rule 2 (a) of the South Carolina Rules of Criminal Procedure.
- F. All General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Should the Magistrate or Municipal Judge determine that the defendant qualifies for court appointed counsel, the Judge shall appoint the Lexington County Public Defender's Office to represent the defendant. The Magistrate's Court or the Municipal Court shall not accept the application fee from any defendant, but shall advise defendants that as a condition of the bond they shall pay such fee to the Clerk of Court within fifteen (15) days from the date of release. Any fees not paid at the time of the General Sessions Court appearance may be addressed by the presiding General Sessions Judge.
- G. For all defendants not qualified for appointed attorneys, the judge shall inform the defendant that failure to obtain an attorney and appear in court with the attorney at the Initial Appearance may result in the bond being revoked, being held in contempt of court, fines and/or jail.
- H. Copies of the Mandatory Appearance Form, arrest warrant, bond and incident report shall be transmitted to the Solicitor's Office within two (2) days after the bond hearing. If the Public Defender is appointed, copies shall also be transmitted to the Public Defender's Office.
- I. Magistrate and Municipal Judges shall transmit warrants, indigent screening forms, Mandatory Court Appearance Forms, incident reports, bond paperwork, and all other documents to the Clerk of Court as soon as possible, but no later than 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.
- J. The Clerk of Court shall forward a copy of the arrest warrant, bond and other paperwork received from Magistrate and Municipal Judges to the Solicitor's Office within two (2) business days from the date of receipt, as required by Rule 3(b) of the South Carolina Rules of Criminal Procedure.
- K. Magistrate and Municipal Judges shall set or deny bonds in all cases with a sentence of less than life.
- L. For cases with a life sentence, defendants shall appear before Magistrate and Municipal Judges who shall inform the defendant of the charges,

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Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

screen the defendant to determine if the defendant qualifies for appointment of counsel, advise the defendant of the right to apply for a bond hearing before a Circuit Court Judge and complete all of the procedures as in cases with less than a life sentence.

The Court hereby directs that for each General Sessions Court case, all law enforcement agencies shall perform the following:

### **III. LAW ENFORCEMENT AGENCIES**

- All law enforcement agencies shall deliver COMPLETE copies of the A. investigative case reports, together with all witness statements, video and audio tapes, photographs and diagrams, RAP sheets, written statements made by the defendant, a full report of all oral statements made by the defendant, the Co-Defendant & Victim Information Sheet (See attached Form 2), and all other materials included in the law enforcement case file, to the Solicitor's Office within fifteen (15) days of the arrest of the defendant. If the case file remains incomplete fifteen (15) days after the arrest, the chief investigating officer shall deliver to the Solicitor's Office all supplemental reports, additional statements, SLED Reports and all other materials completed or received by the investigating officers within three (3) days of completion or receipt. The law enforcement agency shall deliver its COMPLETE investigative file to the Solicitor's Office. If, by the time of the Second Appearance, all investigative materials have not been provided by the arresting agency, the General Sessions Judge may summons the Law Enforcement Agency to Court to explain why the investigation remains incomplete and all investigative materials were not delivered to the Solicitor's Office.
- The Solicitor's office may return any General Sessions warrant to the Β. investigating agency for further investigation within ninety (90) days of receipt of the arrest warrant from the Clerk of Court. (See attached Form Upon return, the Solicitor's office shall notify the Clerk of Court for 3). Lexington County of all returned warrants and such cases shall be removed from the State's pending case list and classified separately, until the investigation is completed and the case is accepted for prosecution by the Solicitor's office. Upon request of the Solicitor's office, all warrants not accepted for prosecution within forty five (45) days of the date of return shall be administratively dismissed without prejudice by the Clerk of Court for Lexington County. Nothing in this section shall be construed to deprive any victim of the rights granted under Article 1, Section 24 of the South Carolina Constitution. The Solicitor's office must notify the Clerk of Court of a completed investigation and acceptance of prosecution by the Solicitor's office.

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C. All law enforcement agencies with outstanding un-served arrest warrants for any defendant incarcerated in the South Carolina Department of Corrections, any county jail, or any other jail, facility or prison in South Carolina shall serve the arrest warrants immediately.

D. After the bond hearing, or any other appearance by a defendant before a Magistrate or Municipal Judge, the arresting law enforcement agency shall deliver a copy of the arrest warrant, the Victim Information Form, and the Co-Defendant & Victim Information Sheet (See attached Form 2) to the Solicitor's Office within two (2) days. The Victim Form shall contain the correct mailing address for each victim, and all telephone numbers to contact the victim(s).

E. On the first of each month, the Lexington County Detention Center shall deliver to the General Sessions Chief Administrative Judge and the Solicitor a written list of all incarcerated defendants/inmates with pending General Sessions Court crimes. The list shall include: (1) only those defendants/inmates with General Sessions Court crimes; (2) the charges and arrest warrant numbers pending against each defendant/inmate; and, (3) the date the defendant/ inmate was last committed to the Lexington County Detention Center.

### IV. DISCOVERY

- A. For defense attorneys of record who have filed a letter of representation along-with a discovery request with the Solicitor's Office, the Solicitor's Office shall prepare defense discovery packets for those General Sessions cases. The discovery packets will be provided, or made available, to defense counsel of record at the Initial Appearance. If a defendant desires to retain new counsel after discovery has been provided to the original attorney of record, the new counsel must obtain leave of the Court to represent the defendant, and new counsel shall be responsible for obtaining the previously provided discovery materials from the defendant or prior counsel.
- B. At the Initial Appearance, the Solicitor's Office shall tender a plea offer, if any, to defense counsel who has filed a letter of representation along with the appropriate discovery requests with the Solicitor's Office.

### V. INITIAL APPEARANCE

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Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

- A. The defendant and the defendant's attorney shall both appear in Court at the Initial Appearance.
- B. The Initial Appearance shall be held in a Courtroom at the MHW Lexington County Judicial Center as set forth in a schedule prepared and supplied by the Solicitor's Office. Roll call shall be conducted as necessary to ensure attendance. The Clerk shall, at the request of the Solicitor, issue bench warrants for those defendants who fail to appear or who have not been excused, in writing prior to the hearing by the Chief Administrative Judge for General Sessions Court.
- C. There shall be no continuances of Initial Appearances except by written Order of the Chief Administrative Judge for General Sessions Court.
- D. When available, the presiding Circuit Court Judge may hold status conferences during this appearance to assist the parties in negotiating agreements.
- E. The issue of legal representation shall be addressed at the Initial Appearance.
  - 1. Defendants who do not qualify for appointed attorneys, appear without legal representation, and desire an attorney may have their bond revoked, held in contempt of court, fined and/or incarcerated.
  - 2. Any defendant who does not make bond prior to the date of Initial Appearance shall be presumed, in the absence of a letter of representation, to be represented by the Public Defender's Office. If a defendant qualifies for a Public Defender, but has retained private counsel prior to the Initial Appearance date, then the private attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time and shall turn over all discovery materials to the new attorney of record.
  - 3. If a defendant did not qualify for a Public Defender, and private counsel has been retained, a letter of representation must be filed with the Solicitor's Office on or before the Initial Appearance date.
  - 4. Defendants who appear without legal representation and desire to proceed pro-se shall be formally advised, on the record, of their right to counsel, the dangers of self representation, and that their trial date will not be continued because of last minute representation. These defendants must appear and remain in court

until dismissed for each term of Lexington County General Sessions Court and other Scheduled Court Appearances, as directed by the Solicitor's Office or the Judge until their case is disposed.

5. In all cases where the defendant is represented by the Public Defender, the Public Defender shall assess the case for possible conflicts of interest and, if necessary, shall file an Affidavit of conflict with Clerk of Court at or prior to the Initial Appearance. The Clerk shall, upon receiving an Order Relieving Counsel, appoint the next attorney from the conflict list and advise, in writing, the defendant and the Solicitor's Office the identity of the new defense attorney. The newly appointed counsel shall also be notified by the Clerk of Court's office. The newly appointed attorney is responsible for obtaining discovery materials from the Public Defender's Office.

- F. Issues of competency shall be addressed at the Initial Appearance. When appropriate, defense counsel shall move for a competency evaluation. A hearing may be held or scheduled for the next term of General Sessions Court to determine if a competency evaluation is necessary.
- G. If it is feasible to do so at the Initial Appearance, the defendant and the State shall enter into negotiations concerning pleas and scheduling. All offers tendered at the Initial Appearance shall be accepted or rejected by the Second Appearance date. If the plea is not accepted or is rejected at the Second Appearance, all plea offers from the State shall be deemed null and void and thereafter given no consideration.
- H. In order to be prepared to respond to the State's plea offer in a timely manner, all Public' Defenders and conflict Court-appointed counsel shall meet in person with their clients prior to the Second Appearance for the purpose of discussing the State's plea offer and all other matters relating to the defendant's case. It is suggested that the Public Defender use the Initial Appearance to schedule appointments for this purpose.
- I. The Public Defenders, court-appointed counsel, and retained counsel shall meet with their incarcerated defendant(s) prior to each Appearance date or General Sessions term of Court.
- J. Defendants and their attorneys shall receive a written notice of a Second Appearance date. (See attached Form 4). The defendants and their attorneys shall both appear on the Second Appearance date. The defendant shall be informed that should he not appear on the Second Appearance date, the Clerk of Court shall, at the request of the Solicitor, issue a bench warrant for the defendant's arrest.

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Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

K. Any other issues will be addressed at the Initial Appearance that may affect the timely disposition of the case.

### VI. INDICTMENTS

- A. Within ninety (90) days after receipt of an arrest warrant from the Clerk of Court, the Solicitor's Office shall take action on the warrant in accordance with Rule 3 of the South Carolina Rules of Criminal Procedure. This Court recognizes that due to their nature or complexity certain cases may not be prepared or presented for submission to the Grand Jury within ninety (90) days and grants an extension in those instances.
- B. In accordance with South Carolina law, no preliminary hearings will be held by the Magistrate or Municipal Court for cases previously indicted by the Grand Jury, unless so ordered by a Circuit Court Judge.

### VII. SECOND APPEARANCE

- A. There shall be no continuance of the Second Appearance. All defendants and defense attorneys shall both appear in Court at the Second Appearance unless excused, prior to the hearing in writing, by the Chief Administrative Judge of General Sessions Court for good cause shown.
- B. The Second Appearance shall be held in the Courtroom designated by the Chief Administrative Judge for Lexington County General Sessions in accordance with the schedule prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. At the request of the Solicitor, the Clerk shall issue bench warrants for those defendants who fail to appear and who have not been excused by the Chief Administrative Judge of General Sessions Court.
- C. All parties shall engage in final plea negotiations. In those cases where a plea agreement is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and set the date for the plea in consideration of the parties' schedules, as well as the victim. (See attached Form 5)
- D. Plea offers not accepted or rejected shall expire at the end of the Second Appearance date, shall be null and void, and thereafter given no consideration.

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- E. Defendants who remain unrepresented on their Second Appearance date and desire an attorney shall be present in Court throughout the day. These defendants shall appear before the presiding judge to show cause why their bond should not be revoked, why they should not be held in contempt of court, fined, and/or incarcerated.
- F. At the Second Appearance, the case shall be assigned to one of three dispositional tracks. These tracks will be 90, 180 and 270 days. (See attached Form 5) Assignment of cases to a track is the responsibility of the Solicitor's office, and is done at the sole discretion of the Solicitor's office. It is the objective of all parties to have every case concluded on or before its disposition date. Should the disposition date fall on a non-court week, it shall be extended until the end of the next term of court. Homicide, criminal sexual conduct w/minors, criminal sexual conduct cases, and such other major felony cases deemed by the Solicitor to be especially time consuming are an exception to this system and may not be assigned a disposition date at the Solicitor's discretion.
- G. The length of the track in which a case is placed determines the deadline by which a case must be disposed.
- H. All other issues may be addressed that may affect the timely disposition of the case.

## VIII. GENERAL SESSIONS COURT PRACTICE

- A. In accordance with Code §1-7-330, a trial roster shall be prepared for each term of General Sessions Court. The rosters shall be prepared and published at least seven (7) days prior to the term of Court and shall be posted with the Clerk of Court, provided to the Chief Administrative Judge for General Sessions Court and to the attorneys of record on the trial roster.
- B. The Solicitor's Office shall set the order of trials.
- C. All Motions for Bonds and Bond Reductions shall be made in writing and filed in the Clerk of Court's office and served on the Solicitor's office no later than one (1) week prior to the beginning of the General Sessions court term.
- D. All motions for continuance and requests for orders of protection shall be submitted to the presiding Judge and Solicitor's Office no later than seven (7) days prior to the commencement of the Court term. The Court will endeavor to hear and rule on the motions for continuance and requests for orders of protection before the commencement of the term of Court.

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Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

E. Nothing in this order shall be construed by this Court or any other Court as a reason for a case to be judicially dismissed. This Order is intended to be strictly administrative in nature.

This Order has been reviewed by the Honorable William P. Keesley, Resident Judge of the Eleventh Judicial Circuit, and the Honorable James W. Johnson Jr., Chief Administrative Judge for the Eleventh Judicial Circuit Court of General Sessions for 2008, who will also enforce this Order.

IT IS SO ORDEREDI

Hororable R. Knox McMahon Chief Administrative Judge for the Eleventh Judicial Circuit Court of General Sessions

Lexington, South Carolina November 9, 2007

#### ATTACHMENTS:

- Form 1 Mandatory Court Appearance and Appointed or Retained Attorney
- Form 2 Co-Defendant & Victim Information Sheet
- Form 3 Warrant Returned for Investigation
- Form 4 Record of First Appearance and Notice of Second Appearance
- Form 5 Record of Second Appearance and Setting of Date for Trial/Plea

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The Eleventh Judicial Circuit also has case management orders in place for Edgefield, McCormick, and Saluda Counties. While copies were not available, Solicitor Hubbard advises that they identical or almost identical to the "Expedited Case Management System Administrative Order" in Lexington County.

## The Supreme Court of South Carolina

## ORDER

The Honorable Michael G. Nettles, Chief Judge for Administrative Purposes for the Twelfth Judicial Circuit for the period of July 6, 2008 through January 3, 2009 has submitted for approval the attached administrative orders amending certain local rules for the processing of criminal cases in Florence County previously approved by Order dated September 10, 2008 and in Marion County previously approved by Order dated September 14, 2008. Now, therefore,

Pursuant to the provisions of S.C. CONST. Art. V, §4, the Administrative Orders are hereby approved for use in Florence and Marion Counties.

Jean Hoefer Toal Chief Justice

November <u>(</u>), 2008 Columbia, South Carolina STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS ) COUNTY OF FLORENCE ) COOPERATIVE CASE MANAGEMENT ) ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the attached Administrative Order (Attachment A") signed by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Administrative Order is hereby adopted by this Court of the County of Florence.

This Court hereby declares and orders that all General Sessions cases arising after October 15, 2007 will be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrate's and Municipal Courts of the County, the following will be done:

#### **BOND HEARING**

- 1. Magistrates and Municipal Judges are required to transmit warrants to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure and the Clerk of Court shall transmit a copy of all the warrants to the Solicitor within 2 business days from the date of receipt pursuant to Rule 3(b) of South Carolina Rules of Criminal Procedure.
- 2. At the time of their bond hearing all defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Such screening will be done in a manner as prescribed by the Clerk of Court with all appropriate forms completed and transmitted to the Clerk of Court along with the warrants and bond paperwork.
- 3. The defendant shall be served with Notice of Initial Appearance and Docket Appearance at the time of the bond hearing. The Defendant's attendance at the Initial Appearance and Docket Appearance shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. At the time of the setting of the Initial Appearance date the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his right to a Preliminary Hearing. Should a hearing be desired, it will be scheduled at the Initial Appearance or within 10 days thereafter.

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The date of the Initial Appearance shall be assigned in accordance with the schedule prepared and disseminated by the Solicitor's Office.

4. Summary Court Judges shall make a determination on bond on all charges Except those charges precluded in S.C. Code of Laws S 22-5-510 (A)

#### II. INITIAL APPEARANCE

- 1. The Initial Appearance will be held at the City County Complex 11<sup>th</sup> Floor Courtroom, or a designated area. Roll call will be conducted as necessary to ensure attendance. The Clerk is authorized to issue a bench warrant for those defendants who fail to appear and have not been excused by the Solicitor.
- 2. There shall be no continuances of Initial Appearances and the Initial Appearance is mandatory unless an Initial Appearance Attendance Waiver form has been executed by counsel for both the State and the Defense, approved by the judge and filed with the Clerk of Court. Execution and filing of the Initial Appearance Waiver form shall constitute satisfaction of the Initial Appearance condition of the Defendant's bond. A copy of the Initial Appearance Waiver form is attached hereto and incorporated herein by reference as Attachment B.
- 3. A preliminary hearing, if desired, must be requested in writing on, or within 5 days after, the initial appearance date.
- 4. The issue of legal representation shall be addressed at the Initial Appearance.
  - a. If a defendant qualifies for Court appointed counsel and has not retained private counsel the Public Defender shall continue to represent the defendant.
  - b. If a defendant qualifies for a Public Defender but retained private counsel prior to the Initial Appearance date then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
  - c. If a defendant did not qualify for a Public Defender, and a private attorney has been retained, then a letter of representation must be filed with the Clerk of Court and served on the Solicitor prior to the initial appearance.

- d. Unrepresented defendants may apply for a Public Defender at the Initial Appearance. Applications will be taken by the Clerk and if approved, will be assigned that day.
- e. Defendants who remain unrepresented after the Initial Appearance must appear on their Docket Appearance date and remain in Court throughout that term until excused by the Court. These defendants must appear for each successive term of Court as required until their case is disposed.
- 5. In all cases where the defendant is represented by the Public Defender the Public Defender shall assess the case at the Initial Appearance for possible conflicts of interest and resolve those conflicts readily identifiable on that date. The Clerk shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant as to the identity of their attorney. The newly appointed counsel shall also be notified on that date and a preliminary hearing automatically scheduled for the defendant.
- 6. Issues of competency shall be addressed at the Initial Appearance. When appropriate, defense counsel shall move for a competency evaluation, and the State may consent to a competency evaluation of the subject defendant at the Initial Appearance. In the alternative, the State and defense may schedule a hearing to determine if a competency evaluation is necessary.
- 7. In all cases where it is feasible to do so, the defendant and the State shall enter into negotiations concerning pleas and dispositional tracking. All offers tendered at the Initial Appearance must be accepted or rejected by the defendant's Docket Appearance date.
- 8. By the Initial Appearance the Solicitor shall provide discovery in all cases where the appropriate motions have been filed with the Clerk of Court and served on the Solicitor.
- 9. DISCOVERY is ordered to be handled pursuant to the following guidelines.
  - A. All law enforcement agencies shall provide copies of General Sessions case reports, together with all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case file, to the Solicitor's Office within twenty –one (21) days of the arrest of the defendant. If the case file remains incomplete thirty (30) days after arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items for which law enforcement is

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

waiting. Failure to do so may necessitate an appearance before the Administrative Judge to explain noncompliance.

B. The Solicitor's Office shall prepare defense discovery packets on all General Sessions cases. Defense discovery packets shall be provided on or before, the Initial Appearance date to all attorneys who have filed a general letter of representation along with the appropriate discovery requests with the Solicitor's Office.

- C. The Solicitor's Office shall prepare a written plea offer for all General Sessions cases. Plea offers shall be communicated on the Initial Appearance Date to all attorneys who have filed a general letter of representation with the Solicitor's Office.
- 10. In order to be prepared to respond to the State's plea offer in a timely manner, all counsel should meet in person with their clients prior to the Docket Appearance date for the purpose of discussing the State's plea offer and all other matters relating to the defendant's case
- At the Initial Appearance the case, will be assigned to one of three 11. dispositional tracks. These tracks will be 180, 270, and 365 days long, respectively. As a general rule all misdemeanors and class F felonies shall be on the 180 day track, all class C, D, and E felonies on the 270 day track and all class A and B felonies on the 365 day track. Assignment of cases to a track will be the responsibility of the Solicitor's Office. The tracking decision of the Solicitor is subject to review by the Circuit Court upon motion of the defendant filed prior to the defendant's Docket Appearance date, and at other times for good cause shown by motion in open court. Homicide, CSC, and CSC with minor cases will not fall within the guidelines of any track. The length of the track in which a case is placed determines the deadline by which a case must be moved. The disposition date is calculated from the Initial Appearance date or Docket Appearance date, whichever is earlier. Should the deadline fall in a non-court week, it will be extended until the end of the next term of Court. It is the objective of all parties to have every case concluded on or before its disposition date.
- 12. A status conference shall automatically be scheduled on a date at the halfway point of the assigned track for each case with the assigned or retained attorney and solicitor and presiding judge. This status conference shall not be waived unless the administrative judge finds that the case is on track for disposition and the status conference is unnecessary.

#### III. PRELIMINARY HEARINGS

- 1. Preliminary hearings shall be held at a sight assigned by the Chief Magistrate. The Presiding magistrate shall be appointed by the Chief Magistrate.
- 2. The Solicitor's Office shall represent the State at all centralized preliminary hearings for A,B, and C class felonies. Other preliminary hearings shall be conducted pursuant to previous guidelines with the Summary Court notifying all victims and witnesses of the date of said hearings.
- 3. Continuance of preliminary hearings may not be granted for any reason unless good cause is shown to the Chief Administrative Judge for General Sessions.
- 4. The defendant or their attorney must be present to be given a preliminary hearing. If one has been requested in a case involving an individual affiant then the failure of the affiant to appear and give testimony will result in the dismissal of the warrant if the defendant and his attorney are present and make the appropriate motion.
- 5. This section of the administrative order (Section III) shall remain in effect as long as law enforcement resources continue to allow the provisions contained herein to be carried out. Should it become impractical to conduct preliminary hearings in the manner outlined in this section the Solicitor may void the requirements of this section of the order by applying to one of the resident judges for a modification to this order. Such action, if approved, would only void this section of the order.

#### IV **INDICTMENTS**

1. All General Sessions cases to be presented for indictment shall be presented to the Florence County Grand Jury within (90) days in accordance with Rule 3 of the South Carolina Rules of Criminal Procedure. This Court recognizes that due to their nature or type, certain cases may not be prepared to go to the Grand Jury within ninety days and grants an extension in those instances. All cases will be indicted prior to the Docket Appearance date.

#### V. <u>DOCKET APPEARANCE</u>

A. The Docket Appearance will be held along with roll call in the General Sessions courtroom, or such other place so designated, at the Florence City-County Complex on Thursdays at 9:30 A.M. as set forth in the schedule prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge of General Sessions Court. Defense counsel is required to be present with the defendant at the Docket Appearance.

B. All parties shall, during this appearance, engage in final plea negotiations. In those cases where a plea agreement is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and schedule the plea.

C. Plea offers shall expire at the end of the business day on the Docket Appearance date and will not be extended unless the defendant can demonstrate a material change in circumstances or some other exceptional situation.

D. The presiding General Sessions Court Judge will hold Docket Appearance status conferences on cases that remain unresolved beginning at 9:00 A.M. on the Monday following the Docket Appearance date to assist the parties in resolving their cases. The Chief Administrative Judge for General Sessions Court shall assign a Circuit Court Judge to preside over the Docket Appearance status conferences. If the case remains unresolved at the status conference the case will be scheduled for trial before one of the presiding General Sessions judges.

E. Defendants who remain unrepresented on their Docket Appearance Date must be present in Court throughout the following term. These defendants must appear for each successive term of Court required by their bond until their case is disposed.

F. Cases may be resolved at any time prior to the specified guidelines

VI.

#### GENERAL SESSIONS COURT PRACTICE

A. A trial roster and roll call roster shall be prepared for each term of General Sessions Court. For consecutive terms, the rosters may cover two terms of court. The rosters shall be prepared and published at least ten (10) business days prior to the term of Court and will be posted in the Courthouse, provided to the Chief Public Defender for Florence County, to the Chief Administrative Judge for General Sessions Court, and to all private counsel listed by U.S. Mail, e-mail, facsimile and/or hand delivery. It is the responsibility of all attorneys who have clients on this docket to notify their clients that their case is scheduled for disposition.

- B. The Solicitor's office shall set the order of trials, and a representative of The Solicitor's Office shall meet with the Chief Administrative Judge for General Sessions Court and a representative of the Public Defender's Office no later than the Monday morning a week before the term of court begins to review the order of trials, as well as, the Court's plea, bond, and probation revocation schedule. This may be done by teleconference at the Judge's discretion.
- C. All motions for continuance and requests for orders of protection shall be submitted to the presiding Judge and Solicitor's Office no later than seven (7) days prior to the commencement of the Court term. The Court will endeavor to hear and rule on the motions for continuance and requests for orders of protection before the commencement of the term of Court.
- During a term of General Sessions Court all assigned Solicitor's and Public Defenders shall be present in the designated courtroom no later than 9:15 am for the morning session of court and 2:15 pm for the afternoon session of court, unless excused by the Presiding Judge.
- E. Nothing in this order shall be construed by this Court or any other Court as a reason for a case to be judicially dismissed. This order is intended to be strictly administrative in nature.

#### IT IS SO ORDERED.

. . . .

Date 9/26/08

Honorable Michael Nettles Administrative Judge 2008 12<sup>th</sup> Judicial Circuit

However & Ming Of

Honorable Howard P. King Administrative Judge 2009 12<sup>th</sup> Judicial Circuit

## The Supreme Court of South Carolina

## ORDER

The Honorable Michael G. Nettles, Chief Judge for Administrative Purposes for the Twelfth Judicial Circuit for the period of July 6, 2008 through January 3, 2009 has submitted for approval the attached administrative orders amending certain local rules for the processing of criminal cases in Florence County previously approved by Order dated September 10, 2008 and in Marion County previously approved by Order dated September 14, 2008. Now, therefore,

Pursuant to the provisions of S.C. CONST. Art. V, §4, the Administrative Orders are hereby approved for use in Florence and Marion Counties.

lean Hoefer Toal Chief Justice

November <u>(</u>), 2008 Columbia, South Carolina STATE OF SOUTH CAROLINA )

COUNTY OF MARION

# IN THE COURT OF GENERAL SESSIONS COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the attached Administrative Order (Attachment A") signed by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Administrative Order is hereby adopted by this Court of the County of Marion.

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This Court hereby declares and orders that all General Sessions cases arising after October 15, 2007 will be processed through the Court under the principles of the system known as Cooperative Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrate's and Municipal Courts of the County, the following will be done:

#### **BOND HEARING**

- 1. Magistrates and Municipal Judges are required to transmit warrants to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure and the Clerk of Court shall transmit a copy of all the warrants to the Solicitor within 2 business days from the date of receipt pursuant to Rule 3(b) of South Carolina Rules of Criminal Procedure.
- 2. At the time of their bond hearing all defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Such screening will be done in a manner as prescribed by the Clerk of Court with all appropriate forms completed and transmitted to the Clerk of Court along with the warrants and bond paperwork.
- 3. The defendant shall be served with Notices of Initial Appearance and Docket Appearance at the time of the bond hearing. The Defendant's attendance at the Initial Appearance and Docket Appearance shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. At the time of the setting of the Initial Appearance date the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his right to a Preliminary Hearing. Should a hearing be desired, it will be scheduled at the Initial Appearance or within 10 days thereafter.

The date of the Initial Appearance shall be assigned in accordance with the schedule prepared and disseminated by the Solicitor's Office.

4. Summary Court Judges shall make a determination on bond on all charges Except those precluded by S.C. Code of Laws S 22-5-510(A).

#### II. INITIAL APPEARANCE

- 1. The Initial Appearance will be held at the Marion County Courthouse. Roll call will be conducted as necessary to ensure attendance. The Clerk is authorized to issue a bench warrant for those defendants who fail to appear and have not been excused by the Solicitor.
- 2. There shall be no continuances of Initial Appearances and the Initial Appearance is mandatory unless an Initial Appearance Attendance Waiver form has been executed by counsel for both the State and the Defense, approved by the judge and filed with the Clerk of Court. Execution and filing of the Initial Appearance Waiver form shall constitute satisfaction of the Initial Appearance condition of the Defendant's bond. A copy of the Initial Appearance Waiver form is attached hereto and incorporated herein by reference as Attachment B.
- 3. A preliminary hearing, if desired, must be requested in writing on, or within 5 days after, the initial appearance date.
- 4. The issue of legal representation shall be addressed at the Initial Appearance.
  - a. If a defendant qualifies for Court appointed counsel and has not retained private counsel the Public Defender shall continue to represent the defendant.
  - b. If a defendant qualifies for a Public Defender but retained private counsel prior to the Initial Appearance date then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
  - c. If a defendant did not qualify for a Public Defender, and a private attorney has been retained, then a letter of representation must be filed with the Clerk of Court and served on the Solicitor prior to the initial appearance.

- d. Unrepresented defendants may apply for a Public Defender at the Initial Appearance. Applications will be taken by the Clerk and if approved, will be assigned that day.
- e. Defendants who remain unrepresented after the Initial Appearance must appear on their Docket Appearance date and remain in Court throughout that term until excused by the Court. These defendants must appear for each successive term of Court as required until their case is disposed.
- 5. In all cases where the defendant is represented by the Public Defender the Public Defender shall assess the case at the Initial Appearance for possible conflicts of interest and resolve those conflicts readily identifiable on that date. The Clerk shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant as to the identity of their attorney. The newly appointed counsel shall also be notified on that date and a preliminary hearing automatically scheduled for the defendant.
- 6. Issues of competency shall be addressed at the Initial Appearance. When appropriate, defense counsel shall move for a competency evaluation, and the State may consent to a competency evaluation of the subject defendant at the Initial Appearance. In the alternative, the State and defense may schedule a hearing to determine if a competency evaluation is necessary.
- 7. In all cases where it is feasible to do so, the defendant and the State shall enter into negotiations concerning pleas and dispositional tracking. All offers tendered at the Initial Appearance must be accepted or rejected by the defendant's Docket Appearance date.
- 8. By the Initial Appearance the Solicitor shall provide discovery in all cases where the appropriate motions have been filed with the Clerk of Court and served on the Solicitor.
- 9. DISCOVERY is ordered to be handled pursuant to the following guidelines.

A. All law enforcement agencies shall provide copies of General Sessions case reports, together with all witness statements, video and audio tapes, photographs and diagrams, and any other material included in the law enforcement case file, to the Solicitor's Office within thirty (30) days of the arrest of the defendant. If the case file remains incomplete fifty-five (55) days after arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items for which law enforcement is

waiting. Failure to do so may necessitate an appearance before the Administrative Judge to explain noncompliance.

- B. The Solicitor's Office shall prepare defense discovery
- C. packets on all General Sessions cases. Defense discovery packets shall be provided on or before, the Initial Appearance date to all attorneys who have filed a general letter of representation along with the appropriate discovery requests with the Solicitor's Office.
- D. The Solicitor's Office shall prepare a written plea offer for all General Sessions cases. Plea offers shall be communicated on the Initial Appearance Date to all attorneys who have filed a general letter of representation with the Solicitor's Office.
- 10. In order to be prepared to respond to the State's plea offer in a timely manner, all counsel should meet in person with their clients prior to the Docket Appearance date for the purpose of discussing the State's plea offer and all other matters relating to the defendant's case
- At the Initial Appearance the case, will be assigned to one of two 11. dispositional tracks. These tracks will be 270, and 365 days long, respectively. As a general rule all misdemeanors and class F felonies shall be on the 270 day track, all class A.B.C, D, and E felonies on the 365 day track. Assignment of cases to a track will be the responsibility of the Solicitor's Office. The tracking decision of the Solicitor is subject to review by the Circuit Court upon motion of the defendant filed prior to the defendant's Docket Appearance date, and at other times for good cause shown by motion in open court. Homicide, CSC, and CSC with minor cases will not fall within the guidelines of any track. The length of the track in which a case is placed determines the deadline by which a case must be moved. The disposition date is calculated from the Initial Appearance date or Docket Appearance date, whichever is earlier. Should the deadline fall in a non-court week, it will be extended until the end of the next term of Court. It is the objective of all parties to have every case concluded on or before its disposition date.
- 12. A status conference shall automatically be scheduled on a date at the halfway point of the assigned track for each case with the assigned or retained attorney and solicitor and presiding judge. This status conference shall not be waived unless the administrative judge finds that the case is on track for disposition and the status conference is unnecessary.

#### III. PRELIMINARY HEARINGS

- 1. Preliminary hearings shall be held at a sight assigned by the Chief Magistrate. The Presiding magistrate shall be appointed by the Chief Magistrate.
- 2. The Solicitor's Office shall represent the State at all centralized preliminary hearings for A,B, and C class felonies. Other preliminary hearings shall be conducted pursuant to previous guidelines with the Summary Court notifying all victims and witnesses of the date of said hearings.
- 3. Continuance of preliminary hearings may not be granted for any reason unless good cause is shown to the Chief Administrative Judge for General Sessions.
- 4. The defendant or their attorney must be present to be given a preliminary hearing. If one has been requested in a case involving an individual affiant then the failure of the affiant to appear and give testimony will result in the dismissal of the warrant if the defendant and his attorney are present and make the appropriate motion.
- 5. This section of the administrative order (Section III) shall remain in effect as long as law enforcement resources continue to allow the provisions contained herein to be carried out. Should it become impractical to conduct preliminary hearings in the manner outlined in this section the Solicitor may void the requirements of this section of the order by applying to one of the resident judges for a modification to this order. Such action, if approved, would only void this section of the order.

#### IV **INDICTMENTS**

1. All General Sessions cases to be presented for indictment shall be presented to the Marion County Grand Jury within (90) days in accordance with Rule 3 of the South Carolina Rules of Criminal Procedure. This Court recognizes that due to their nature or type, certain cases may not be prepared to go to the Grand Jury within ninety days and grants an extension in those instances. All cases will be indicted prior to the Docket Appearance date.

#### V. DOCKET APPEARANCE

Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

- A. The Docket Appearance will be held along with roll call in the General Sessions courtroom, or such other place so designated, at the Marion County Courthouse on Thursdays at 9:30 A.M. as set forth in the schedule prepared and supplied by the Solicitor's Office. Roll call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue bench warrants for those defendants who fail to appear and have not been excused by the Solicitor's Office or the Chief Administrative Judge of General Sessions Court. Defense counsel is required to be present with the defendant at the Docket Appearance.
- B. All parties shall, during this appearance, engage in final plea negotiations. In those cases where a plea agreement is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and schedule the plea.
- C. Plea offers shall expire at the end of the business day on the Docket Appearance date and will not be extended unless the defendant can demonstrate a material change in circumstances or some other exceptional situation.
- D. The presiding General Sessions Court Judge will hold Docket Appearance status conferences on cases that remain unresolved beginning at 9:00
   A.M. on the Monday following the Docket Appearance date to assist the parties in resolving their cases. The Chief Administrative Judge for General Sessions Court shall assign a Circuit Court Judge to preside over the Docket Appearance status conferences. If the case remains unresolved at the status conference the case will be scheduled for trial before one of the presiding General Sessions judges.
- E. Defendants who remain unrepresented on their Docket Appearance Date must be present in Court throughout the following term. These defendants must appear for each successive term of Court required by their bond until their case is disposed.

F. Cases may be resolved at any time prior to the specified guidelines

VI.

#### GENERAL SESSIONS COURT PRACTICE

A. A trial roster and roll call roster shall be prepared for each term of General Sessions Court. For consecutive terms, the rosters may cover two terms of court. The rosters shall be prepared and published at least ten (10) business days prior to the term of Court and will be posted in the Courthouse, provided to the Chief Public Defender for Marion County, to the Chief Administrative Judge for General Sessions Court, and to all private counsel listed by U.S. Mail, e-mail, facsimile and/or hand delivery. It is the responsibility of all attorneys who have clients on this docket to notify their clients that their case is scheduled for disposition.

- B. The Solicitor's office shall set the order of trials, and a representative of The Solicitor's Office shall meet with the Chief Administrative Judge for General Sessions Court and a representative of the Public Defender's Office no later than the Monday morning a week before the term of court begins to review the order of trials, as well as, the Court's plea, bond, and probation revocation schedule. This may be done by teleconference at the Judge's discretion.
- C. All motions for continuance and requests for orders of protection shall be submitted to the presiding Judge and Solicitor's Office no later than seven (7) days prior to the commencement of the Court term. The Court will endeavor to hear and rule on the motions for continuance and requests for orders of protection before the commencement of the term of Court.
- D. During a term of General Sessions Court all assigned Solicitor's and Public Defenders shall be present in the designated courtroom no later than 9:15 am for the morning session of court and 2:15 pm for the afternoon session of court, unless excused by the Presiding Judge.
- E. Nothing in this order shall be construed by this Court or any other Court as a reason for a case to be judicially dismissed. This order is intended to be strictly administrative in nature.

IT IS SO ORDERED.

9-16-08 Date

9/20/08 Date

Honorable Michael Nettles Administrative Judge 2008 12<sup>th</sup> Judicial Circuit

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Honorable Howard P. King Administrative Judge 2009 12<sup>th</sup> Judicial Circuit

## The Supreme Court of South Carolina

# RE: DISPOSITION OF CASES IN GENERAL SESSIONS IN THE THIRTEENTH JUDICIAL CIRCUIT

## ORDER

The Court directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of the county, the following procedure is to be followed:

- I. Bond Hearing
  - a. Within 72 hours, after being served with a warrant, a Defendant shall appear before a Magistrate for a bond hearing.
  - b. At this hearing, the Defendant shall be assigned a Bond Returnable Date approximately 60 days from the date of the bond hearing.
  - c. The Magistrate shall transmit the warrant to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.
  - d. The law enforcement officer responsible for the investigation resulting in the warrant(s) shall transmit the case file and all available discovery to the Solicitor's office no later than 60 days after service of the warrant(s).
- II. <u>Track Assignment</u>
  - a. Once the Solicitor's office receives the warrants, cases will be automatically assigned to one of four specific tracks (12 month, 11 month, 10 month, 9 month) based on the CDR code of the most serious offense charged.
  - b. Deadlines are automatically assigned to a case once it has been placed on a track.
     Deadlines begin to run from the date that the warrant is filed with Clerk of Court's office.
    - i. Offer letters are due no later than:
      - 1. 9 months on the 12 month track.
      - 2. 8 months on the 11 month track.
      - 3. 7 months on the 10 month track.

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- 4. 6 months on the 9 month track.
- ii. Guilty pleas must be entered by:
  - 1. 12 months on the 12 month track.
  - 2. 11 months on the 11 month track.
  - 3. 10 months on the 10 month track.
  - 4. 9 months on a 9 month track.
- iii. Case is placed on proposed trial docket:
  - 1. After 12 months on the 12 month track.
  - 2. After 11 months on the 11 month track.
  - 3. After 10 months on the 10 month track.
  - 4. After 9 months on the 9 month track.
- c. The Court acknowledges that certain cases may take longer to prosecute and defend, and the Solicitor and the Defense counsel may extend plea negotiations for a period without order of Court. This does not infringe upon Defendant's right to move for a speedy trial or Solicitor's right to have case set for trial prior to the guilty plea deadline if negotiations have proven unsuccessful. After the time indicated in II b ii, plus a period of nine months has expired, the parties must seek leave of Court for any further extension.

#### III. Bond Returnable Date

- Approximately 60 days from the initial bond hearing, a Defendant shall appear for a Bond Returnable Date assigned by the Magistrate and/or Municipal Judge at the initial bond hearing. This appearance will be presided over by the CJAP or a Judge designated by the CJAP for that purpose.
- b. At this hearing, the Solicitor shall collect:
  - i. The Defendant's current mailing address.
  - ii. The Defendant's charges.
  - iii. The Defendant's Date of Birth.
  - iv. Attorney Information, if applicable.
- c. If a Defendant has an attorney at this time, the defense attorney may notify the Solicitor's Office five days in advance of the bond returnable date to waive his client's appearance in court. If notice of waiver is not received by the Solicitor's office, the Defendant must appear but may leave with the instruction to make contact with his attorney.
- d. If a Defendant does not have an attorney at this time, the presiding Judge shall order that he obtain an attorney within 60 days and inform the Defendant that if he does not have an

attorney by that time, the State may proceed to trial regardless of whether or not he has an attorney. Said order is to be filed with the Clerk of Court.

#### IV. Bond Card

- a. Prior to the plea offer deadline, the Solicitor shall issue a bond card summoning the Defendant during a Plea Court term.
- b. Defense attorneys shall notify their clients of specific court dates and shall communicate with the Solicitor's office as to when they want their clients bond carded for court.
- c. If a Defendant is pro se:
  - The Solicitor shall utilize this date to communicate about scheduling with pro se Defendants who have not been in contact with the Solicitor since the Bond Returnable Date.
  - ii. Pro se Defendants who are not yet under an order to obtain representation shall be placed under such an order at this time.
- d. If a Defendant is represented by counsel:
  - i. Prior to this date, the Solicitor shall provide the Defendant's attorney with a plea offer and requisite discovery.
  - ii. The Defendant's attorney may use this meeting as an opportunity to discuss the charges and any plea offer with his client if he has not had the opportunity to do so.
  - iii. If the Defendant desires to plead guilty, he may do so on this day as long as all victims have been notified of the plea in advance.

#### V. Jail Cases

- a. Jail cases shall be monitored with greater scrutiny than non-jail cases.
- b. Once a jail case passes the six month mark, the assigned Assistant Solicitor shall provide a status of the case and an expected disposition date to the Deputy Solicitor.
- c. Once a jail case passes the one year mark, the Solicitor shall place it on a designated spreadsheet or other case management tool for increased monitoring. This spreadsheet shall be provided on a monthly basis to the CJAP. These cases are to be reviewed every three to four months by the Deputy Solicitor. Again, the assigned Assistant Solicitor must provide a status of the case and an expected disposition date.
- d. Defendants in jail may be transported to the court house on designated days during noncourt weeks to meet with their attorneys and to sign plea paperwork, if applicable.
  - i. The Solicitor shall deliver the appropriate paperwork to the holding cell/meeting rooms. This paperwork shall include a sentencing sheet, any restitution orders,

#### Page **3** of **7**

and the advice of rights (if required) even if these items have already been provided to the Defendant. In its discretion, the Solicitor's office may include a guilty plea summary sheet.

- Although not every defense attorney chooses to participate in the jail sign-up, the Solicitor shall make reasonable efforts to encourage participation, including making Defendants/defense attorneys aware of the priority assigned to cases below.
- e. Jail cases for transport shall be assigned the following priority:
  - i. *Trial*: Inmates whose case is on the trial docket or who will be testifying in court on the day in question.
  - ii. Signed-up Time Served: Inmates who have signed the necessary paperwork and will be released from jail upon entering a guilty plea (this category includes those Defendants receiving time served sentences followed by probation).
  - iii. *Jail Signed-Up:* Inmates who have signed the necessary paperwork regardless of the plea offer.
  - iv. *Time Served Offers*: Inmates who have not signed the necessary paperwork but will receive a time served recommendation once he enters a plea of guilty.
  - v. Jail: Any remaining cases.

#### VI. <u>Bench Warrants</u>

- a. If a bench warrant is issued for a Defendant prior to the case being placed on a published trial docket, the case shall be assigned to a 120 day track upon his arrest on that bench warrant.
  - i. The Solicitor shall provide a plea offer by day 60.
  - ii. Guilty pleas shall be due on day 120.
- b. If a Defendant has new charges in addition to the Bench Warrant charges, the Defendant shall be placed on a track which coincides with the newest charge(s).
- c. If the bench warrant is issued on a case on the trial docket, the case shall not automatically be placed on a new track.

#### VII. Bond Cases/Street Pleas

- a. Defendants who are out on bond shall be issued a bond card summoning them to a Plea Court term
  - i. If a Defendant remains unrepresented, the presiding judge shall place him under an order requiring him to obtain representation (if the Defendant is not already under such an order).

#### Page 4 of 7

#### Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

- ii. If a Defendant has previously been under an order to obtain an attorney and has failed to do so in the allotted time specified in the order, the Defendant shall be brought before the presiding judge to determine whether the Defendant's bond should be revoked.
- iii. If a Defendant is represented by counsel, the Defendant shall be excused. This does not prevent the parties from seeking to reach a resolution of the case that day.
- b. Calling cases:
  - i. Defendants who have already signed the necessary plea paperwork shall be designated "Priority Pleas" and given priority in the order of cases called before the judge each day.
  - ii. Jail cases shall have priority over street/bond cases.
- c. Each case shall have a "Guilty Plea Summary Sheet" which contains all pertinent information. This allows the plea to be handled by any Assistant Solicitor assigned to plea court that day. The remaining Assistant Solicitors are then free to continue work on other cases. This method allows for reduced congestion in the court room and decreases the requisite transition time between pleas.

#### VIII. Bonds and Motions

- a. Bonds
  - i. If a bond has not been set or if a Defendant has requested a bond reduction, a hearing shall be held via video-conferencing on the next available Friday (or day designated by the CJAP) subsequent to the exhaustion of negotiations between the parties on the issue of bond (paperwork must be received by noon on Monday).
  - ii. After this hearing, a Defendant must file a "Change of Circumstances" motion with the CJAP in order to have the matter of bond revisited by a judge.
- b. Motions
  - i. Motions filed by either the State or the Defense shall be heard on Fridays or any other designated time as approved by the CJAP;
  - Once a motion is filed, with copies to opposing counsel and the CJAP, the CJAP shall determine if the motion shall be set for a hearing, and if so, shall set the motion on an upcoming docket.

#### Page **5** of **7**

iii. All motions (except those allowed to be made *ex parte*) must contain language certifying that moving counsel has discussed the motion with opposing counsel, and that the parties were unable to resolve the motion prior to filing.

#### IX. <u>Trials</u>

- a. Once the track due date has expired, the Solicitor shall place a case on a proposed trial docket after consultation with defense counsel.
- b. Upon placement on the trial docket, a case shall be set for a date certain. In proposing a date certain, the Solicitor shall consider:
  - i. The age of the case.
  - ii. Jail status of the Defendant.
  - iii. Availability of witnesses.
  - iv. Whether the defense attorney is scheduled for a plea day on that date.
  - v. Any other special circumstances.
- c. The Solicitor's office shall provide the proposed trial docket to the CJAP and to defense counsel included on the docket.
- d. The CJAP shall review and modify the docket as appropriate. Any objection to the date certain must be submitted in writing to the CJAP and prior to publication of the docket. Nothing in this provision shall prohibit an attorney from moving for a continuance for good cause after publication.
- e. When the CJAP gives final approval of the docket, the Solicitor's office shall publish the docket.
- f. In Greenville County, the Solicitor's office shall publish the docket at least 30 days in advance of any trial date on the docket.
- g. Once the docket has been approved by the CJAP, any continuance at the request of the State or the defense may be granted only by the CJAP if prior to the term of court or by the trial judge if during the term of court.
- h. During the term of trial court, cases shall generally be called in the order published.
  Furthermore, the court shall oversee the calling of the cases and the most effective use of the presiding judges' court time. If the CJAP is a trial judge for that term, the CJAP shall make these decisions. If not, the first resident judge (or first non-resident judge if no resident judge is assigned) listed on the docket shall oversee the docket for the term of court.

This Order shall be effective January 1, 2014.

<u>s/Jean H. Toal</u> Jean H. Toal Chief Justice of the Supreme Court For the State of South Carolina

December 12, 2013

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STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS FOURTEENTH JUDICIAL CIRCUIT

### DIFFERENTIATED CASE MANAGEMENT ORDER

### 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.

- 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. <u>Bond</u>: 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. <u>Warrants</u>: 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. <u>Appointment of Counsel</u>: 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 prehearing 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. <u>Post-Bond Hearing Screening</u>: 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. <u>Conflicts:</u> 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. <u>Notice of Initial Appearance</u>: 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. <u>Preliminary Hearing:</u> 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. <u>Discovery from Law Enforcement:</u> 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. <u>Representation</u>: 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.** <u>Discovery</u>: 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. <u>Plea Offers</u>: 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. <u>In Writing:</u> All plea offers must be communicated in writing to the Defendant's attorney.
    - **ii.** <u>Information:</u> 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. <u>No Plea Offer:</u> 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. <u>Pre-Trial Intervention</u>: 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. <u>Mental health issues</u>: 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. <u>CJAP Presides</u>: 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. <u>Plea Offers Accepted</u>: 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. <u>Plea Offers Rejected</u>: Rejections of Plea Offers shall be placed on the record during the Second Appearance.
- 4. <u>Guilty Plea Paperwork</u>: 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. <u>PTI Offers</u>: 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. <u>Discovery Completion</u>: 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

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- 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!

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

\_, 2014 Walterboro, South Carolina

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

 $\frac{10}{\text{Beaufort, South Carolina}}, 2014$ 

Gene G. Hood, Public Defender Fourteenth Judicial Circuit

me\_2014 Beaufort, South Carolina

John Mo Serve

Faac McDuffie Stone, Solicitor Fourteenth Judicial Circuit

2 \_, 2014 Beaufort, South Carolina



# State of South Carolina The Circuit Court of the Fifteenth Judicial Circuit

STEVEN H. JOHN RESIDENT JUDGE 1301 Second Ave. Suite 3A30 CONWAY, SOUTH CAROLINA 29526 (843) 915-6696 FAX: (843) 915-5859

January 7, 2014

Jimmy Richardson, Solicitor Fifteenth Judicial Circuit Horry County Judicial Complex 1301 Second Avenue Conway, S.C. 29526 Orrie West, Esquire Chief Public Defender Fifteenth Judicial Circuit P. O. Box 1666 Conway, SC 29526

# RE: DIFFERENTIATED CASE MANAGEMENT AND TRIAL SCHEDULING ADMINISTRATIVE ORDER for General Sessions Court

Dear Jimmy & Orrie:

Please find enclosed a certified and true copy of the Differentiated Case Management and Trial Scheduling Administrative Order for General Sessions Court that Chief Justice Toal and I have signed, and which has been filed in Horry and Georgetown Counties. Please see that all members of your respective staffs receive notice of <u>all</u> of the terms of this Order. I am asking the Public Defender's Office to mail a copy of this Order to all Contract and Conflict Attorneys used by them. Please note that I made several changes to the Order based upon the issues you brought to my attention.

I know you will communicate with your staff that we are all in this process together, and to help make the terms of this Order work, that they know those terms will be enforced. Certainly, if you have any questions, please do not hesitate to contact me and thank you for your attention to this matter.

With kindest personal regards, I remain

Sincerely yours, **STEVEN H. IOHN** 

Chief Administrative Judge Court of General Sessions Fifteenth Judicial Circuit

**公司RTIFIED GIPY** STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS ) FOR THE COUNTIES OF HORRY AND GEORGETOWN CLERK OF GOURT FIFTEENTH JUDICIAL CIRCUIT DIFFERENTIATED CASE MANAGEMENT AND TRIAL SCHEDULING ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Differentiated Case Management and Trial Scheduling Administrative Order is hereby adopted for the Horry and Georgetown County General Sessions Court.

This Court hereby declares and orders that all General Sessions cases arising after January 1, 2014, will be processed through the Court under the principles of the system known as Differentiated Case Management. In accordance with the requirements of this system, the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of these Counties, the following shall be done:

#### I. WARRANTS

A. All General Sessions warrants must be signed by the investigating, arresting, or other law enforcement officer responsible for the case. General Sessions warrants signed by private individuals will not be signed by the Magistrate or Municipal <u>Court Judges, and if they are signed and issued they will be subject to immediate</u> dismissal without prejudice by the Solicitor.

#### II. BOND HEARING

- A. General sessions bond hearings at J. Reuben Long Detention Center shall be held on the days and times set by the Chief Magistrate in accordance with the policies and procedures adopted by the South Carolina Court Administration. In addition to their statutory duties, the victim/witness advocates on duty at J. Reuben Long Detention Center shall, prior to bond court, provide to the presiding Magistrate Judge a packet for each General Sessions case consisting of the incident report, warrant/ticket, and defendant's criminal history.
- B. The Magistrate or Municipal Judge shall serve the defendant with a Notice of Mandatory Court Appearances (see attached) at the time of the bond hearing. The dates for both appearances shall appear on this one page form near the top for ease of understanding. The defendant's attendance at the initial appearance hearing and

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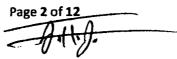
Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

docket appearance hearing shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. The dates of the initial appearance hearing and the docket appearance hearing shall be assigned in accordance with the schedule prepared and supplied by the Solicitor's Office.

- C. During the course of the bond hearing, the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his or her right to a Preliminary Hearing. Should a hearing be desired, it will be scheduled at that time by the Court in accordance with current practice.
- D. At the conclusion of their bond hearing, all General Sessions defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Such screening will be done in a manner as prescribed by the Clerk of Court. Should the Court determine that the defendant qualifies of court appointed counsel, the Judge shall assign the appropriate Public Defender's Office to represent the defendant. The Magistrates and Municipal Judges shall maintain a record of defendants who qualify for court appointed counsel and shall notify the Public Defender's office, in writing or by email, of their appointment at the conclusion of each day's bond hearings. In addition, the Magistrates and Municipal Judges shall forward copies of the defendant's application form, warrants, incident report, and Notice of Mandatory Appearance form to the Solicitor's Office and the Public Defender's Office for all cases in which the court has appointed the Public Defender's office and the Public Defender's Office for all cases in which the court has appointed the Public Defender's Office for all cases in which the court has appointed the Public Defender's office and the Public Defender's office for all cases in which the court has appointed the Public Defender as expeditiously as possible.
- E. Magistrates and Municipal Judges shall transmit warrants to the Clerk of Court within fifteen (15) days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.

# III. CASE TRACKING

- A. The Solicitor shall utilize an automated differentiated case management system capable of tracking the assigned prosecutor, date of arrest, bond hearing, indictment, initial appearance, docket appearance, and whether any plea offer was made and if such offer was accepted or rejected. This system will also track the contact information for the defendant and the defendant's attorney and can be accessed or electronically provided to the Clerk of Court when appropriate.
- B. Prior to the Initial Appearance, all cases will be subject to evaluation against a three hundred sixty-five (365) day disposition benchmark. It is the objective of all parties to have eighty percent (80%) of Track 1 cases concluded on or before their target disposition dates.
  - 1. Track One: The standard disposition timetable for cases shall be under Track One which projects a final disposition of 1 year from date of arrest. Should the disposition date fall on a non-court week, it will be extended until the end of the next term of Court.



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- 2. Track Two: The following cases shall be exempt from the three hundred sixty-five (365) day benchmark. These case types include only the following categories:
  - i. Death penalty and those involving loss of life;
  - ii. Those in which DNA evidence is material;
  - iii. Those which, pursuant to court order, have engaged the South Carolina Department of Mental Health for the purpose of determining competency and/or criminal responsibility; and
  - iv. Those which have multiple co-defendants or unusually complex logistical or factual issues.
- C. Cases may be moved from Track 1 to Track 2 after the Initial Appearance if the Court orders a Department of Mental Health evaluation or if further forensic testing becomes necessary.
- D. Once a defendant's case is assigned to Track 2, all other cases pending, or that may become pending against that defendant, will be assigned to this track.
- 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. Trials *in absentia* continue to be appropriate pursuant to the trial judge's finding of proper notice given.

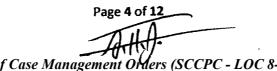
#### IV. DISCOVERY

- A. All law enforcement agencies shall provide copies of 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 to the Solicitor's Office within thirty (30) days of the arrest of the defendant. If the case file remains incomplete thirty days after arrest, law enforcement shall provide the Solicitor's Office that portion of the report that is complete, together with a listing of those items for which law enforcement is waiting. Law enforcement's failure to provide the Solicitor's Office the complete case file as set forth in this administrative order may result in the offending law enforcement agency being held in contempt of this court and/or the case being dismissed with leave to re-indict. All motions for contempt shall be heard only by the Chief Administrative Judge.
- B. The Solicitor's Office shall prepare a defense discovery packet on all General Sessions cases on or before the defendant's initial appearance date. Further, the Solicitor's Office shall provide the defense discovery packet, on or before the initial appearance date, to any attorney that has filed a general letter of representation along with the appropriate discovery request with the Solicitor's Office.
- C. The Solicitor's Office shall prepare a written plea offer for every General Sessions case and provide it on or before the defendant's initial appearance date to any

attorney that has filed a general letter of representation with the Solicitor's Office. As a matter of practice, the written plea offer shall at a minimum contain a listing of the charges contemplated by the offer, the terms of the offer, and the expiration date of the offer. Plea offers shall generally expire on the date of the defendant's docket appearance date. The Solicitor shall provide an adequate amount of time in the terms of the plea offer for counsel and the defendant to review, discuss, and respond to the offer prior to the expiration date.

# V. REMANDED FOR ADDITIONAL INVESTIGATION

- A. If the assigned prosecutor determines, within ninety (90) days of the date of arrest, that insufficient evidence exists to present a case to the Grand Jury, he or she shall remand the warrant(s) back to the investigating agency for further investigation.
- B. Upon remand, the assigned prosecutor shall provide written notification to the defendant, victim(s) if applicable, and the investigating agency of the change in status of the warrant. The investigating agency shall have ninety (90) days from the date of remand to conduct such additional investigation as requested and as it deems appropriate and shall present any additional evidence to the assigned prosecutor for consideration.
- C. Upon providing notice of remand for further investigation, the Solicitor's Office shall remove the warrant(s) from the assigned prosecutor's pending cases list and shall classify them separately as remanded for further investigation.
- D. Once the investigating agency has concluded its additional investigation, it shall present its evidence to the assigned prosecutor, who will then determine if sufficient evidence exists to present the case to the Grand Jury or otherwise advance the prosecution.
- E. Should the investigating agency fail to present sufficient evidence to the assigned prosecutor within ninety (90) days of the date of remand, the Solicitor's Office shall administratively dismiss the warrant(s) without prejudice and shall notify the victim(s) if applicable and the investigating agency.
- F. Should the assigned prosecutor determine that sufficient evidence exists to advance the prosecution of the case, he/she shall restore the warrant(s) back to his/her pending case list so that he/she may take the steps necessary to move the case toward disposition. The assigned prosecutor may request that a remanded warrant be restored at any time prior to the warrant's administrative dismissal.
- G. Upon notice of a remand for further investigation, the Solicitor and defense counsel shall confer regarding the bond status of the defendant and the defendant may petition the Court for review of the amount and conditions of his/her bond.
- H. Nothing in this section shall be construed as limiting the state's authority to directly present criminal cases to the Grand Jury for indictment.



Attachment A - Compilation of Case Management Orders (SCCPC - LOC 8-15-18)

# VI. INDICTMENTS

- A. All General Sessions cases to be presented for indictment shall be presented to the appropriate Grand Jury within ninety (90) days of the case being transmitted by the Clerk of Court to the Solicitor's Office and in accordance with the South Carolina Rules of Criminal Procedure.
- B. This Court recognizes that certain cases may not be prepared to go to the Grand Jury within ninety (90) days due to their nature and may grant an extension in those instances.
- C. In accordance with South Carolina law, no preliminary hearings will be held on indicted cases.

# VII. INITIAL APPEARANCE

- A. The Initial Appearance will be held as set forth in the schedule prepared and supplied by the Solicitor's Office, but no sooner than sixty (60) days from the date of arrest. Roll call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue bench warrants based on 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 Chief Administrative Judge for General Sessions Court.
- B. There shall be no continuances of Initial Appearances.
- C. Defendants may be excused in writing from Initial Appearance if all matters to be addressed during Initial Appearance have been addressed by the prosecution and defense prior to the hearing. Email confirmation between the Attorney of record and the Solicitor's Office will satisfy the writing requirement.
- D. The issue of legal representation shall be addressed at the Initial Appearance.
  - 1. Unrepresented defendants may apply for a Public Defender at the initial appearance. Applications will be taken by the Clerk of Court and, if approved, will be assigned that day.
  - 2. The Clerk of Court will screen the defendant for indigence pursuant to State law.
  - 3. If a defendant qualifies for a Public Defender, but has retained private counsel prior to the Initial Appearance date, then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
  - 4. If a defendant did not qualify for a Public Defender and private counsel has been retained, then a letter of representation from such private counsel must be received by the Solicitor's Office on or before the initial appearance.
  - 5. Defendants who remain unrepresented must appear for their Docket Appearance and remain in Court throughout that term until the issue of representation has been addressed on the record before the court. The defendant will be warned of the dangers of acting *pro se* at that time. These defendants may be required to

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appear for each successive term of Court as required by their bond until their case is disposed.

- 6. In all cases where the defendant is represented by the Public Defender, the Solicitor's Office and the Public Defender shall assess the case at the initial appearance for possible conflicts of interest and resolve those readily identifiable conflicts on that date. The Clerk shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant as to the identity of his/her attorney. The newly appointed counsel shall be notified by the Public Defender's Office and appointed counsel shall notify the State Office of Indigent Defense in accordance with their policies and procedures.
- E. Issues of competency shall be addressed at the Initial Appearance. When appropriate, the State or defense counsel shall move for a competency evaluation. In the alternative, the State and defense may request a hearing to determine if a competency evaluation is necessary. All established procedures for a competency evaluation shall be followed by the State and defense counsel.
- F. In all cases where it is feasible to do so, the defendant and the State shall enter into negotiations concerning pleas and scheduling at Initial Appearance.
  - 1. In order to be prepared to respond to the State's plea offer in a timely manner, defense counsel shall meet in person with their client prior to the Docket Appearance for the purpose of discussing the State's plea offer and other necessary matters relating to the defendant's case.
  - 2. The Public Defender shall use the Initial Appearance hearing to schedule appointments for this purpose.

# VIII. DOCKET APPEARANCE AND ROLL CALL

- A. Roll Call shall be held prior to the terms of General Sessions Court in order to efficiently schedule court business before the appropriate presiding judge.
  - 1. The Docket Appearance will be held along with Roll Call as set forth in the schedule prepared and supplied by the Solicitor's Office.
  - 2. Both the Final Trial Roster and the Roll Call roster shall be prepared and published at least ten (10) business days prior to the term of Court and will be posted in the Courthouse and provided to the Chief Public Defender, the Chief Judge for Administrative Purposes(CJAP) for General Sessions Court, and any private counsel of record.
  - 3. Roll Call will include those defendants whose cases have been directly presented to the Grand Jury and/or whose Docket Appearance dates have passed without their cases being disposed.
  - 4. Defendants and defense counsel are required to appear for Docket Appearance and Roll Call. The Defendant must remain until excused by the court or the Solicitor's Office. If defense counsel must leave before the defendant is excused, he/she shall make sure some attorney can speak officially for the counsel and the defendant. The Clerk of Court is authorized to issue bench warrants for those



defendants who fail to appear for Docket Appearance or Roll Call and also for those defendants that fail to remain until excused by the Solicitor's Office based upon a written list prepared by the Solicitor's Office. A copy of the list shall be provided to all counsel of record. No defendant shall be subject to this Roll Call prior to his/her docket appearance date.

- 5. During this appearance, the parties shall engage in final plea negotiations unless an arraignment is necessary. The CJAP shall be notified in writing of such request for an arraignment within fifteen (15) days. In those cases where a plea agreement or other disposition is reached, the parties shall prepare the necessary paperwork, obtain the necessary signatures, and/or schedule the plea as needed to dispose of the case.
- 6. Plea offers shall expire at the end of the business day on the Docket Appearance date and in general will not be extended. The Solicitor shall provide an adequate amount of time in the terms of the plea offer for counsel and the defendant to review, discuss, and respond to the offer prior to the expiration date.
- 7. In those cases where plea negotiations are not successful, the defendant must affirmatively express his/her intent to reject the State's final plea offer. This may be accomplished in the following two ways:
  - a. A written rejection of plea offer form signed by the defendant and defendant's counsel; or
  - b. An arraignment hearing on the record before the presiding judge.

# IX. GENERAL SESSIONS COURT PRACTICE

- A. During a term of General Sessions Court, all assigned Solicitors, Public Defenders, and private counsel shall be present in the designated courtroom no later than 9:00 a.m. for the morning session of court in order to prepare for the Presiding Judge to take the bench at 9:30 a.m. Participants in the afternoon session shall be present at 1:30 p.m. for the afternoon session of court in order to prepare for the Presiding Judge to take the bench at 2:00 p.m. unless ordered otherwise by the Presiding Judge.
- B. During the term of trial court, cases shall generally be called in the order published. Furthermore, the court shall oversee the calling of cases and the most effective use of the Presiding Judge's court time.
- C. Motions for continuance for cases projected from the priority trial docket and requests for orders of protection shall be served upon the Chief Administrative Judge for General Sessions Court or his designee and upon the opposing counsel no later than the Thursday by 10:00 a.m. of the week prior to the commencement of the court term.
- D. The Court will endeavor to hear and rule on the motions for continuance and requests for orders of protection before the commencement of the term of court after proper notice to the Court in writing.
- E. Nothing in this order shall be construed by this Court or any other Court as a reason for a case to be judicially dismissed. This order is intended to be strictly administrative in nature.

#### X. TRIAL CASE PREPARATION AND DOCKET DEVELOPMENT

- A. Unless a plea agreement is reached, the defendant shall reject the state's final plea offer in writing or on the record in an arraignment before the presiding judge as cited above.
- B. The Solicitor shall have the initial responsibility for preparing and designating when a case is ready for trial. Thereafter, the Solicitor shall place the case on one of two dockets:
  - 1. <u>General Trial Docket</u>: 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.
    - a. At least ten (10) cases in this category shall appear on the Proposed Trial Roster each month. Trial notices on General Docket cases shall be published by the Clerk of Court ten (10) days prior to the term of Court based on the information from the Solicitor's Office.
    - b. Cases may be moved from the General Docket to the Priority Docket, but only after written ten (10) days notice to the defense counsel, based on the following criteria:
      - 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; and
      - vi. Special circumstances, including public safety.
    - c. A defendant can file a motion for a speedy trial at any time and can be placed on either the General Docket or Priority Docket by the CJAP, or his designee, depending on the age of the case.
  - <u>Priority Trial Docket</u>: This docket shall include <u>all</u> cases which are more than eighteen (18) months old or those cases already operating under a scheduling mechanism, regardless of age.
    - a. Appropriate scheduling mechanisms include:
      - i. A formal letter from the Solicitor to the defendant and counsel filed with the Clerk of Court setting forth a specific projected trial dates, subject to change by the CJAP;
      - ii. Written agreement between the parties setting forth a trial date, subject to change by the CJAP;
      - iii. Arraignment findings before the presiding judge on the record and reduced to writing in which a specific trial date was ordered, subject to change by the CJAP;
      - iv. Consent scheduling orders submitted to the CJAP setting forth a disposition schedule including status conference dates leading up to a projected trial date; and

- v. Status conferences before the CJAP, or his designee, during a term of General Sessions Non Jury Court to address concerns and develop a disposition schedule as cited above.
- b. Three cases from the Priority Docket should be projected for a date certain each term of court.
  - i. Two serious trials that could consume a five day term of court, and one further case shall be scheduled as a backup.
  - ii. General Docket cases will back up Priority Docket cases.
  - iii. This is designed to minimize the impact to victims and witnesses in serious cases when their expectations are heightened in preparation of the trial and then, due to the constraints of time, their case cannot be reached and must be rescheduled.
- c. The Solicitor shall utilize the Six Month General Sessions Court Schedule as provided by Court Administration and combine this with the CJAPGS trial judge assignments and non-jury terms of court to create a draft Six Month Projected Trial Schedule in consultation with the CJAP.
- d. Three potential date certain trial slots will be allocated for Priority Docket cases for each term of trial court. These slots will be filled as the cases become prepared with the defendant's name, the attorneys' names and a brief description of the scheduling mechanism utilized to place it in that projected trial slot.
- e. This evolving scheduling tool shall be provided to the CJAP and to the presiding judge for non-jury terms to offer up-to-date supporting information to resolve continuances or other conflicts in trial court scheduling with multiple trial judges.
- f. These Six Month Projected Trial Schedules are an administrative tool for planning only and shall not confer to a defendant a right to trial on any particular date.

# XI. NON-JURY TERMS OF COURT

- A. Court Administration shall designate certain terms of Court during the year as nonjury terms. During said terms, the Court shall hear substantive motions from cases set for a date certain as well as other filed motions, guilty pleas, and other Court business.
- B. Priority shall be given to pre-trial matters on Priority Docket trials projected to be heard during the next term of court. These shall be scheduled beginning on the Monday of non-jury terms as far as practical.
- C. Status conferences on projected trials for future terms of Court shall also be scheduled beginning on Monday to assure these Priority Docket trials will be resolved on or before their projected date.

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- 1. Such conferences should identify cases that may be disposed by guilty pleas, cases where continuances may be sought, or cases where discovery or other issues may require the Court's attention.
- 2. Addressing such issues at status conferences should allow enough time to remedy a situation or to prepare the back-up Priority Docket or other trial cases to replace any case disposed of or continued.
- D. Once the status conferences for future terms of court are resolved, the court shall undertake the substantive motions on cases set to be heard at the next term of court as time allows. Hearings in subsequent cases may be rescheduled for a day and time certain later in the same non-jury term.
- E. Motions filed with the Clerk of Court and served on the opposing side concerning cases not on the trial roster shall be scheduled for the morning session of Court on the assigned Solicitor's team court business day or during any other term of general sessions plea court as set by the CJAP or other presiding Judge.
- F. After motions and status conferences, the remainder of the non-jury term shall be dedicated to guilty pleas, probation revocations, and general Court business in order to dedicate more judicial resources to trials when a jury pool is available.

# XII. SCHEDULING OF TRIALS

- A. The 15<sup>th</sup> Judicial Circuit has a large population of part-time residents, transients, and seasonal tourists who become victims and material witnesses and then leave the jurisdiction while the case is still pending. The expense of securing attendance of such victims and witnesses on a date certain for trial is the responsibility of the Solicitor. This order acknowledges this issue and addresses the necessity for enhanced judicial supervision to ensure the efficient, cost effective, and timely management of the trial docket.
- B. The Solicitor shall assemble cases from the two dockets into a Proposed Trial Roster for a specific term of court before the assigned presiding judge in the form of a numbered list. The Solicitor shall take into consideration the readiness and availability of defense counsel if that particular defense counsel has more than one (1) case on the docket.
- C. The Priority Docket cases will be listed first followed by the General Docket cases.
- D. This Proposed Trial Roster will consist of at least three Priority Docket cases combined with at least ten (10) cases from the General Docket.
- E. The cases will be ordered to reflect victim and witness availability. During the term of trial court, the cases shall generally be called in the order as published.
- F. The Solicitor shall provide the CJAP with this Proposed Trial Roster for review and final approval. This Proposed Trial Roster may be accepted by the Court as submitted or modified by the CJAP and returned to the Solicitor.

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- G. Upon approval by the CJAP, this becomes the Final Trial Roster and the Clerk of Court shall publish it in a conspicuous place in the Courthouse for public viewing.
- H. Trial notices on Priority Docket cases shall already have been communicated to the defendant through the scheduling mechanism utilized, and shall be repeated in the Final Trial Roster published by the Clerk of Court ten (10) days prior to the term of Court.
- I. Once a case has been placed on a Final Trial roster, it will be carried over to the next available term of court or projected to a specific term of court until it is disposed. Those cases will be joined by new cases submitted by the Solicitor for the upcoming terms of court. The trial rosters are for notice and planning only and shall not confer to a defendant a right to trial on any particular date.

# XIII. TRIAL DOCKET MANAGEMENT AND JUDICIAL SUPERVISION

- A. Cases shall be managed and supervised as follows:
  - 1. <u>Date of arrest to one (1) year</u>: these cases shall be under the sole jurisdiction of the Solicitor and may be placed on the General Docket at the Solicitor's discretion, unless placed on Priority Docket with a projected date certain.
  - 2. <u>One (1) year but less than eighteen (18) months</u>: these cases shall remain under the jurisdiction of the Solicitor and may be placed on the General Docket at the Solicitor's discretion, but they shall be reviewed by the Solicitor and a scheduling mechanism employed prior to the case reaching eighteen (18) months old.
  - 3. <u>Eighteen (18) months or more</u>: these cases shall be reviewed and supervised by the CJAP as follows:
    - i. The Solicitor shall forward a status report and a Six Month Projected Trial Roster on cases in this category to the CJAP for review. The reports shall be updated and submitted quarterly.
    - ii. The report should outline any unique concerns and whether there is a written scheduling mechanism in place. If none are in place, the Solicitor should include proposed scheduling mechanisms and a disposition timetable. Upon completing the review of this report, the CJAP may:
      - a. Be satisfied with the scheduling mechanisms in place;
      - b. Request additional information from the Solicitor; or
      - c. Mandate the use of additional scheduling mechanisms on the case, such as hearings during a term of Non-jury General Sessions Court in order to develop an appropriate scheduling order.
    - iii. The CJAP shall use the Six Month Projected Trial and Non-Jury Schedule to develop an appropriate disposition plan.
    - iv. These cases will remain under judicial supervision of the CJAP as cited above until they are disposed of.

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# Therefore, it is

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**ORDERED** that this Administrative Order shall go into effect immediately upon the signing by the undersigned. This Order shall remain in effect unless rescinded by the Chief Justice of the South Carolina Supreme Court and the Chief Administrative Judge for General Sessions of the Fifteenth Judicial Circuit or other Order of the South Carolina Supreme Court.

IT IS SO ORDERED.

Honorable Jean H. Toal Chief Justice South Carolina Supreme Court

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Honorable Steven H /Job/n

Honorable Steven H/Jobn Chief Administrative Judge, General Sessions Fifteenth Judicial Circuit

Conway, South Carolina

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STATE OF SOUTH CAROLINA	) IN THE COURT OF GENERAL SESSIONS		
COUNTY/CITY OF HORRY	) NOTICE OF DATES AND TIMES OF GENERAL SESSIONS		
STATE OF SOUTH CAROLINA	)		
	) INITIAL AND DOCKET APPEARANCES	20	
VS	) FOR DEFENDANTS	IH JAN	-
DEFENDANT	1		· · · ·
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INITIAL APPEARANCE FRIDAY:	1:00 P.M. ON	22	

#### DOCKET APPEARANCE FRIDAY: 8:30 A.M. ON

#### Warrant Numbers:

Your Initial and Docket Appearances are at the Horry County Judicial Center (New Courthouse) which is located at 1301 Second Avenue, Conway, South Carolina. The dates and times of your Appearances CANNOT be changed.

YOU MUST BE PRESENT AT THE INITIAL APPEARANCE AND THE DOCKET APPEARANCE. IF YOU FAIL TO APPEAR FOR EITHER APPEARANCE AT THE ABOVE STATED DATE AND TIME, YOUR BOND WILL BE TAKEN FROM YOU (REVOKED) AND YOU WILL BE PLACED IN JAIL UNTIL THE TRIAL OF YOUR CASE, WHICH COULD TAKE MANY MONTHS. YOU WILL NOT BE GRANTED A NEW BOND IF YOU FAIL TO APPEAR.

\_\_\_\_\_You have been APPROVED for an attorney from the Public Defender's Office. You should contact the Public Defender Office as soon as possible at the following address and telephone number: Horry County Public Defender's Office, 203 Laurel Street, Conway, South Carolina (843-915-5385).

\_\_\_\_\_Although you have applied for an attorney from the Public Defender's Office, you were REJECTED by the Court for appointment of a Public Defender attorney. You MUST hire your own attorney before your Initial Appearance date, if you wish to be represented by an attorney. You must have your attorney contact the Solicitor who is prosecuting your case before the Initial Appearance date.

If you want to have a Preliminary (probable cause) Hearing in your case, you must request one in writing. This request must be made within 10 Days from today's date. Once you have made a request for a Preliminary Hearing, one will be scheduled and you will be notified of the date and time of your Preliminary Hearing.

As stated above, you must be present at BOTH the Initial Appearance and the Docket Appearance or a Bench Warrant will be issued for you. YOU MUST REMAIN AT THE INITIAL APPEARANCE AND THE DOCKET APPEARANCE UNTIL YOU HAVE BEEN EXCUSED (OR GIVEN PERMISSION TO LEAVE) BY THE SOLICITOR OR UNLESS OTHERWISE ORDERED BY A JUDGE.

I have read this form or have had it read to me. I understand these instructions and I have been given a copy of this form.

**Defendant's Signature** 

Judge's Signature

Date

Date

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STATE OF SOUTH CAROLINA

COUNTY OF UNION

STATE OF SOUTH CAROLINA,

# FILE FOR RECORD

UNION. SC AMENDED ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the attached Administrative Order (Attachment "A") signed by The Honorable Chief Justice Ernest A. Finney, Jr. of the South Carolina Supreme Court, the following Administrative Order is hereby adopted by this Court for the County of Union.

This Court hereby declares and orders that all General Sessions cases arising in Union County after March 1, 1997 will be processed through the Court under the principles of the system known as Differentiated Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Court of this County, the following will be done:

#### I. BOND HEARING

- Magistrates and Municipal Judges are required to transmit warrants to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure. The Clerk of Court shall then have two days to transmit the warrant to the Solicitor.
- At the time of their bond hearing all defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Such screening will be done in a manner as prescribed by the Clerk of Court.
- 3. The defendant shall be served with a Notice of Initial Appearance at the time of the bond hearing. The defendant's attendance at the initial appearance shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognize Bond Form or Section D of a Surety Bond Form. At the time of the setting of the Initial Appearance date the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his right to a Preliminary Hearing. Should a hearing be desired, it will be provided at the Initial Appearance. The date of the Initial Appearance shall be assigned

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in accordance with a schedule to be prepared by the Sixteenth Circuit Solicitor. Future schedules will be prepared by the Solicitor as new court schedules are issued by Court Administration.

# II. INITIAL APPEARANCE

- The Initial Appearance will be held at the Union County Courthouse. A Magistrate will be assigned by the Chief Magistrate to preside over the Initial Appearances and conduct Preliminary Hearings.
- 2. Continuances of an Initial Appearance can only be granted by the Magistrate presiding over the Initial Appearance, or by consent of both the prosecution and the defense. Continuances granted by the Magistrate will only be granted for good cause shown and no Initial Appearance will be continued beyond the next scheduled Initial Appearance date.
- 3. The Preliminary Hearing, if requested, will be afforded a defendant at the Initial Appearance. The Solicitor's Office shall represent the State at all such hearings, and notify all non-law enforcement affiants of the dates of such hearings.
- The issue of legal representation shall be addressed at the Initial Appearance.
  - a. If a defendant qualifies for Court appointed counsel and has not retained private counsel the Public Defender shall continue to represent the defendant.
  - b. If a defendant qualifies for a Public Defender but has retained private counsel prior to the Initial Appearance date then that attorney must file a Notice of Representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
  - c. If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Clerk of Court and a copy served on the Solicitor. Once notice of representation has been filed, no attorney may be relieved of representation except upon order of the Court upon good cause shown.
  - d. Defendants who remain unrepresented at the Initial Appearance must appear on their Bond Returnable date and remain in Court throughout that term until excused by the Court. These defendants must appear for each successive term of Court as required by their bond until their case is disposed.

- 5. In all cases where the defendant is represented by the Public Defender the Public Defender shall assess the case at the Initial Appearance for possible conflicts of interest and resolve those conflicts readily identifiable on that date. The Clerk shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list and the Initial Appearance shall be continued until the next Initial Appearance date.
- 6. In all cases where it is feasible to do so, the defendant and the State shall enter into negotiations concerning pleas and dispositional tracking. All offers tendered at the Initial Appearance must be accepted or rejected by the Thursday prior to that defendant's Bond Returnable date.
- 7. At the Initial Appearance the Solicitor shall provide discovery in all cases where the appropriate motions have been filed with the Clerk of Court.
- 8. All Law Enforcement Agencies are required to forward to the Solicitor's Office all existing case reports no later than one week prior to the Initial Appearance date.
- 9. At the Initial Appearance the case will be assigned to one of three dispositional tracks. These tracks will be 90, 120 and 150 days long respectively. Assignment of cases to a track will be the responsibility of the Solicitor's Office. The tracking decision of the Solicitor is subject to review by the Circuit Court upon motion of the defendant filed prior to the defendant's bond returnable date, and at other times for good cause shown by motion in open court. Murder cases will not fall within the guidelines of any track.

The length of the track in which a case is placed determines the deadline by which a case must be moved. The date is calculated from the Initial Appearance date or Bond Returnable date, whichever is earlier. Should the deadline fall in a non-court week, it will be extended until the end of the next term of Court.

These deadlines will be judicially monitored and enforced. NO PLEA NEGOTIATIONS WILL BE ACCEPTED IN THE FINAL TERM OF A CASES TRACK.

# III. GENERAL SESSIONS COURT PRACTICE

- 1. The Solicitor's Office will, on the 1st and 15th of each month, provide the Chief Administrative Judge a list of all pending cases within 30 days of their track deadlines.
- 2. Presiding Judges will be available from 9:00 9:30 on Tuesdays through

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Fridays of General Sessions Court terms to hold case status conferences with attorney's for the state and the defense. Conferences may be requested by either party and once scheduled, appearance is mandatory.

- 3. Extensions of the track deadlines may only be granted by the Presiding Judge or Chief Judge for Administrative Purposes, for good cause shown by way of motion in open court.
- 4. Motions on dispositive issues shall be filed with the Clerk of Court, served on opposing counsel and scheduled for oral argument no later than 30 days prior to the tracking deadline. Issues developing within 30 days of the tracking deadline should immediately be brought before the court.
- 5. At least seven days prior to each term of court the Solicitor shall prepare and publish a docket of all cases subject to being called in that term of court. Publication shall be effected by making the docket available in the office of the Clerk of Court located in the Union Courthouse. The Clerk of Court shall also distribute the docket to those attorneys listed via U.S. Mail, or in the alternative via facsimile machine. It shall be the responsibility of all attorney's with clients on this docket to notify their clients that their case is scheduled for disposition.

AND IT IS SO ORDERED.

THE HON. JOHN C. HAYES, III CHIEF ADMINISTRATIVE JUDGE 16TH JUDICIAL CIRCUIT

THIS 2 DAY OF DECEMBER, 1996 YORK, SOUTH CAROLINA

ORIGINAL ON FILE

Included in SCCPC's August 15, 2018 letter to the House Oversight Committee

STATE OF SOUTH CAROLINA BEC 30 2 04) PM '97GENERAL SESSIONS COUNTIES OF YORK AND UNION LAWLY TO H C.O.O.P. & D.SSIXTEENTH JUDICIAL CIRCUIT In Re: Differentiated Case Management (DCM) Management (DCM) Management (DCM)

Effective January 1, 1998 and until further notice from this Court the enforcement and oversight of track deadlines as set forth in this courts Differentiated Case management administrative order of May 7, 1996 are suspended. The granting of extensions, within the DCM docketing system will be vested exclusively in the Solicitor pursuant to Section 1-7-330 of the South Carolina Code of Laws, as amended. All other aspects of the DCM Administrative Order will remain in effect.

This order will apply to both York and Union Counties.

AND IT IS SO ORDERED.

The Hon. John C. Hayes, III Chief Administrative Judge Sixteenth Judicial Circuit

This 10 of December, 1997 York, South Carolina

CERTIFIED TRUE COPY YORK COUN CIT 00 30 1 86

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Included in SCCPC's August 15, 2018 letter to the House Oversight Committee

signed 12-27-2000

STATE OF SOUTH CAROLINA )

COUNTY OF YORK

STATE OF SOUTH CAROLINA,

IN THE COURT OF GENERAL SESSIONS

AMENDED ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by the attached Administrative Order (Attachment "A") signed by The Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Administrative Order is hereby adopted by this Court for the County of York.

This Court hereby declares and orders that all General Sessions cases arising after December 31, 2000 will be processed through the Court under the principles of the system known as Differentiated Case Management. In accordance with the requirements of this system the following rules are hereby adopted.

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Court of this County, the following will be done:

#### I. BOND HEARING

- Magistrates and Municipal Judges are required to transmit warrants to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure.
- 2. At the time of their bond hearing all defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Such screening will be done in a manner as prescribed by the Clerk of Court.
- 3. The defendant shall be served with a Notice of Initial Appearance at the time of the bond hearing. The defendant's attendance at the initial appearance shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognize Bond Form or Section D of a Surety Bond Form. At the time of the setting of the Initial Appearance date the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his right to a Preliminary Hearing. Should a hearing be desired, it will be scheduled at the Initial Appearance. The date of the Initial Appearance shall be assigned

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in accordance with the schedule prepared and disseminated by the Solicitor's Office.

# II. INITIAL APPEARANCE

Attachment A - Compilation of Case Management Orders (SCCPC

- 1. The Initial Appearance will be held at the Moss Justice Center. Roll call will be conducted as necessary to ensure attendance. The Clerk is authorized to issue a bench warrant for those defendants who fail to appear and have not been excused by the solicitor.
- 2. There shall be no continuances of Initial Appearances
- 3. A preliminary hearing, if desired, must be requested in writing on or before the initial appearance date.
- 4. The issue of legal representation shall be addressed at the Initial Appearance.
  - a. If a defendant qualifies for Court appointed counsel and has not retained private counsel the Public Defender shall continue to represent the defendant.
  - b. If a defendant qualifies for a Public Defender but has retained private counsel prior to the Initial Appearance date then that attorney must
    - -file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
  - c. If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed pursuant to the requirements of this Court's Administrative Order dated July 12, 1995.
  - d. Unrepresented defendants may apply for a Public Defender at the Initial Appearance. Applications will be taken by the clerk and if approved, will be assigned that day.
  - e. Defendants who remain unrepresented at the Initial Appearance must appear on their Bond Returnable date and remain in Court throughout that term until excused by the Court. These defendants must appear for each successive term of Court as required by their bond until their

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case is disposed.

5. In all cases where the defendant is represented by the Public Defender the Public Defender shall assess the case at the Initial Appearance for possible conflicts of interest and resolve those conflicts readily identifiable on that date. The Clerk shall, upon Affidavit of Conflict; appoint the next attorney from the conflict list and advise the defendant as to the identity of their attorney. The newly appointed counsel shall also be notified on that date and a preliminary hearing automatically scheduled for the defendant.

6. In all cases where it is feasible to do so, the defendant and the State shall enter into negotiations concerning pleas and dispositional tracking. All offers tendered at the Initial Appearance must be accepted or rejected by the Thursday prior to that defendant's Bond Returnable date.

7. By the Initial Appearance the Solicitor shall provide discovery in all cases where the appropriate motions have been filed with the Clerk of Court.

8. All Law Enforcement Agencies are required to forward to the Solicitor's Office all existing case reports no later than one week prior to the Initial Appearance date.

At the Initial Appearance the case will be assigned to one of three dispositional tracks. These tracks will be 90, 120 and 150 days long respectively. Assignment of cases to a track will be the responsibility of the Solicitor's Office. The tracking decision of the Solicitor is subject to review by the Circuit Court upon motion of the defendant filed prior to the defendant's bond returnable date, and at other times for good cause shown by motion in open court. Murder cases will not fall within the guidelines of any track

The length of the track in which a case is placed determines the deadline by which a case must be moved. The date is calculated from the Initial Appearance date or Bond Returnable date, whichever is earlier. Should the deadline fall in a non-court week, it will be extended until the end of the next term of Court.

# III. PRELIMINARY HEARINGS

Attachment A

- 1. Preliminary hearings shall be held at the Moss Justice Center. The presiding magistrate shall be appointed by the Chief Magistrate.
- 2. The Solicitors Office shall represent the State at all centralized

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preliminary hearings and notify all victims and witnesses as to the scheduling of said hearings.

3. Continuances of preliminary hearings may not be granted for any reason.

- 4. The defendant or their attorney must be present to be given a preliminary hearing. If one has been requested in a case involving an individual affiant then the failure of the affiant to appear and give testimony will result in the dismissal of the warrant regardless of the defendant's presence.
- 5. This section of the administrative order (Section III) shall remain in effect as long as law enforcement resources continue to allow the provisions contained herein to be carried out. Should it become impractical to conduct preliminary hearings in the manner outlined in this section the Solicitor may void the requirements of this section of the order by applying to one of the resident judges for a modification to this order. Such action, if approved, would only void this section of the order.

# IV. GENERAL SESSIONS COURT PRACTICE

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- 1. The Solicitor's Office will, on the 1st and 15th of each month, provide the Chief Administrative Judge a list of all pending cases within 30 days of their track deadlines.
- 2. Presiding Judges will be available from 9:00 9:30 on Tuesdays through Fridays of General Sessions Court terms to hold case status conferences with attorneys for the state and the defense. Conferences may be requested by either party and once scheduled, appearance is mandatory.
- 3. At least seven days prior to each term of court the Solicitor shall prepare and publish a docket of all cases subject to being called in that term of court. Publication shall be effected by making the docket available in the office of the Clerk of Court located in the Moss Justice Center. The Clerk of Court shall also distribute the docket to those attorneys listed via U.S. Mail, or in the alternative via facsimile machine. It shall be the responsibility of all attorney's with clients on this docket to notify their clients that their case is scheduled for disposition.

# AND IT IS SO ORDERED.

HON. HAYES, 

CHIEF ADMINISTRATIVE JUDGE 16TH JUDICIAL CIRCUIT

Witi THIS 27 DAY OF MAX, 19 YORK, SOUTH CAROLINA