



OFFICE OF THE
COMMONWEALTH'S ATTORNEY

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District Court Discovery Policy and Procedure

The Office of the Commonwealth's Attorneys handles:

- All felony cases occurring within Prince William County, the Cities of Manassas and Manassas Park and the Towns of Haymarket, Occoquan, Dumfries, and Quantico;
- All traffic and misdemeanor cases occurring within Prince William County and the City of Manassas.

Traffic and misdemeanor cases occurring within the City of Manassas Park and the Towns of Haymarket, Occoquan, Dumfries, and Quantico are handled by private counsel hired by each individual police department. Discovery requests for those cases should be directed to the appropriate prosecutor and not this office.

The policy and procedures set forth below apply **ONLY** to the *felonies* set for preliminary hearing and *misdemeanors which may be punished by confinement in jail* and which the Office of the Commonwealth's Attorney handles (see above).

Rules 7C:5 and 8:15 of the Rules of the Supreme Court of Virginia require the Commonwealth to permit the accused **to hear, inspect and copy or photograph** the following information or material when the existence of such is known or becomes known to the prosecuting attorney and such material or information is to be offered in evidence against the accused:

1. Any relevant written or recorded statements or confessions made by the accused, or copies thereof and the substance of any oral statements and confessions made by the accused to any law enforcement officer; and
2. Any criminal record of the accused.

The Commonwealth's Attorney believes that providing more information than what is required by the Rules is a better practice. Since January of 2020, this Office has informally been providing all body-worn camera footage, photographs, police reports, witness statements, and

copies of other documentation associated with the case whenever a request for discovery has been made based on the belief that the more information the defense has, the better. We have been doing this via encrypted emails sent to the defense attorney and through links on Evidence.com.

For cases that are assigned to a prosecutor, any discovery request received or ordered is forwarded to the assigned prosecutor who is responsible for the timely preparation of the discovery response. To find out if a case is assigned, inquiries can be made by calling the office at 703-792-6050 or sending an email to cwoffice@pwcgov.org – keeping in mind that assignment may not take place right away but may occur one to two weeks after arraignment or sometimes later.

For cases that are unassigned, the Office forwards the discovery request or order to our “discovery team” of paralegals overseen by the Staff Attorney and Deputy Chief of Staff. These paralegals prepare formal discovery answers and forward links to items on Evidence.com in consultation with the attorneys. These paralegals are **not** available to answer questions or respond to emails from attorneys. Any additional requests regarding discovery should be made by calling the duty attorney at 703-792-6050 or emailing cwoffice@pwcgov.org.

Unassigned case discovery requests are answered by court date. This means that the discovery team is currently working on answering discovery requests for the cases that have court dates coming up first. We strive to answer discovery requests as soon as possible after receiving them; however, the volume of such requests far exceeds our capacity to answer them. Typically, we are answering discovery one to two weeks prior to the Court date. Our goal is thirty days in advance of the Court date; however, without additional personnel, we rarely get close to our goal.

We ask attorneys to limit the number of times they request to “check on the status” of their discovery requests as this takes time away from answering the requests.

Defense Attorneys will now have three options to exercise discovery rights at the district court level: 1) Open File Discovery Agreement; 2) Conforming Agreed Discovery Order; 3) Non-Conforming Discovery Requests and Orders. Further information follows.

1) Open File Discovery Agreement

This is a new, informal discovery option for attorneys wishing to quickly access the information for a particular case and does not require a court appearance or entry of a court order. This is an acceptable method for any felony or misdemeanor or traffic case that the Office of the Commonwealth’s Attorney handles (see above).

The attorney should prepare the form (attached hereto and available on our website www.pwcgov.org/government/courts/ca/Pages/Documents.aspx) and email it to cwoffice@pwcgov.org or fax it to 703-792-7081 or mail/hand-deliver it to 9311 Lee Avenue #200, Manassas, VA 20110.

Only one Agreement should be sent to the office.

If the Agreement is properly filled out, it will be signed at the bottom and forwarded to the discovery team to begin the response. If it is not properly filled out, it will be returned to the defense attorney.

No formal answer will be filed with the Court; however, a copy of the completed form noting the documents sent and the date and number of pages or items will be provided to defense counsel via encrypted email or other agreed upon delivery. Defense counsel may file the form with the clerk's office if they so desire.

2) **Conforming Agreed Discovery Order**

a. GENERAL DISTRICT COURT

This is a formal request for discovery under the Rules of the Supreme Court of Virginia. The Commonwealth's Attorney's Office will generally send the same information as set forth in the Open File Discovery Agreement.

This method is acceptable for any felony pending for preliminary hearing and any misdemeanor which may be punished by confinement in jail and the attorney has **not** submitted an Open File Discovery Agreement (see above).

Attorneys wishing to proceed in this manner for General District Court should prepare the ***Agreed Discovery Order*** (attached hereto and available on our website at www.pwcgov.org/government/courts/ca/Pages/Documents.aspx) and either email it to cwoffice@pwcgov.org or fax it to 703-792-7081 or mail/hand-deliver it to 9311 Lee Avenue #200, Manassas, VA 20110.

Only one copy should be so delivered.

If the Order is properly filled out, it will be signed at the bottom and forwarded to the General District Court clerk's office for entry. The file and the discovery request will then be forwarded to our discovery team to begin the response. If the Order is not properly filled out or does not apply to the case, it will be returned to the defense attorney.

A formal answer will be filed with the Court when complete and sent to defense counsel via encrypted email or other agreed upon delivery.

b. JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT

1. Adult Cases

This is a formal request for discovery under the Rules of the Supreme Court of Virginia. The Commonwealth's Attorney's Office will generally send the same information as set forth in the Open File Discovery Agreement.

Attorneys wishing to proceed in this manner for an ADULT case involving a felony or misdemeanor which may be punished by confinement in jail that is pending in the Juvenile and Domestic Relations District Court should prepare a **Notice and Motion for Discovery** (attorney-generated, not provided herein) and the **Agreed Discovery Order** (attached hereto and available on our website at www.pwcgov.org/government/courts/ca/Pages/Documents.aspx.)

The Attorney should docket the motion for the Court's daily 8:30 a.m. docket and forward both the **Notice and Motion** and the proposed **Agreed Discovery Order** to the Commonwealth's Attorney's Office by either emailing it to cwooffice@pwcgov.org or faxing it to 703-792-7081 or mail/hand-deliver it to 9311 Lee Avenue #200, Manassas, VA 20110.

Only one copy should be delivered to the Commonwealth's Attorney's Office.

If the Order is properly filled out, it will be signed by the prosecutor at the 8:30 docket and submitted to the Court for entry without the appearance of the defense attorney. The Order and file will then be forwarded to our discovery team to begin the response.

A formal answer will be filed with the Court when complete and sent to defense counsel via encrypted email or other agreed upon delivery method.

c. JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT

1. Juvenile Delinquency Cases

This is a formal request for discovery under the Rules of the Supreme Court of Virginia. The Commonwealth's Attorney's Office will generally send the same information as set forth in the Open File Discovery Agreement.

Attorneys wishing to proceed in this manner for a Juvenile case when the juvenile is charged with an act that would be a felony if committed by an adult, or in a transfer hearing or a preliminary hearing to certify charges pursuant to § 16.1-269.1 that is pending in the Juvenile and Domestic Relations District Court should prepare a **Notice and Motion for Discovery** (attorney generated, not provided herein) and the **Agreed Order for Discovery Juveniles** (attached hereto and available on our website at www.pwcgov.org/government/courts/ca/Pages/Documents.aspx).

The Attorney should docket the motion for the Court's daily 9:00 a.m. docket and forward both the **Notice and Motion** and the proposed **Agreed Order for Discovery Juveniles** to the Commonwealth's Attorney's Office by either emailing it to cwooffice@pwcgov.org or faxing it to 703-792-7081 or mail/hand-deliver it to 9311 Lee Avenue #200, Manassas, VA 20110.

Only one copy should be delivered to the Commonwealth's Attorney's Office.

If the order is properly filled out, it will be signed by the prosecutor at the 9:00 docket and submitted to the Court for entry. We will then forward our file to the discovery team to begin the response.

A formal answer will be filed with the Court when complete and sent to defense counsel via encrypted email or other agreed upon delivery method.

3) **Non-Conforming Formal Discovery**

Defense counsel are always free to motion the Courts to enter orders that they feel are appropriate in any case that for some reason do not conform to the Orders set forth within this Policy. Counsel should docket the motions for discovery on the appropriate Court's docket and provide the Commonwealth's Attorney's Office with a copy of the motion and the proposed order as set forth in the Rules of the Supreme Court of Virginia.

If Counsel submits a proposed Agreed Order to the Office of the Commonwealth's Attorney and that order does not conform to the ones set forth herein, the Order will be returned to the attorney.

Pro se parties should prepare their own motions for discovery as set forth in the Rules of the Virginia Supreme Court.

The Commonwealth's Attorney's Office is not required to provide open file if a prosecutor deems it inappropriate to do so in any case.

Any attorney seeking to have body worn camera footage sent to them in a format that is downloadable by the attorney should file a discovery motion with the appropriate court seeking same. The Commonwealth will not sign an order that does not comport with the Order issued by the General District Court on February 23, 2021. The Commonwealth may seek additional protections for the benefit of witnesses and victims in a case if appropriate.