



GREENVILLE COUNTY
SHERIFF'S OFFICE

GO - 155

GENERAL ORDERS

LEGAL

PURPOSE:

The Legal Unit and the General Counsel's Office exist to process various legal issues and related tasks. These include civil litigation, FOIA requests, subpoenas for documents and/or testimony, criminal discovery, vehicle seizures for DUS/DUI, and U-Visas, among others. This General Order is provided to ensure uniformity of process across the GCSO when deputies encounter the issues listed above.

POINTS OF CONTACT:

The Legal Unit and the General Counsel's Office are made up of several sworn and non-sworn personnel with specific tasks related to legal matters at the GCSO:

General Counsel: Serves as legal advisor to the Sheriff and his command staff on all official legal matters. Oversees, among other things, the general areas of civil litigation, FOIA requests, and ongoing compliance with federal and state laws.

General Counsel has the authority to direct all members of the legal unit in procedures concerning legal matters. Failure to carry out a directive given by General Counsel in legal matters is considered insubordination.

Paralegal: Assists the General Counsel and serves as the main point of contact for all civil litigation matters involving the GCSO. This includes IRF lawsuits as well as claims filed by individuals against the GCSO.

FOIA Coordinator: Works in conjunction with the General Counsel to manage the processing of all FOIA requests submitted to the GCSO from outside individuals/entities.

Subpoena/Criminal Discovery Coordinator: Processes all civil and criminal subpoenas for documents and assists deputies in producing records in accordance with S.C.R.Crim.P. 5(a) (criminal discovery).

Seizure Coordinator: Oversees the processing of vehicles seized pursuant to S.C. Code § 56-5-6240 (DUS/DUI) from initial seizure through permanent forfeiture or abandonment.

Certifying Official: Individual(s) designated by the Sheriff to process U-Visa applications (Form I-918B) to be submitted to U.S. Department of Homeland Security and U.S. Citizenship and Immigration Services.

CIVIL LITIGATION:

In the event that a deputy is sued in civil court for actions taken pursuant to their official duties, an attorney will be appointed by the South Carolina Insurance Reserve Fund (“IRF”), of the State Fiscal Accountability Authority, to represent that deputy and/or the agency in those civil proceedings.

The IRF insures the GCSO and covers all expenses associated with legal claims brought against deputies in the course of their official duties. Provided the claims are covered under the policy, the IRF-appointed attorney will handle all aspects of the case (from answering the complaint, guiding the deputy through discovery, handling motions, presenting at trial, and appealing an adverse decision, if necessary).

The Paralegal will keep both the General Counsel and the involved deputies apprised of developments in the case and any issues that may arise during the litigation process.

Notably, the IRF will pay any settlement on the deputy’s or the GCSO’s behalf, should the case be resolved during mediation. In the extremely rare event that a civil claim against a deputy is not covered by the IRF, that deputy will be notified. Questions regarding the civil litigation process should be directed to the General Counsel or his or her Paralegal.

Accepting Service for a Lawsuit

Normally, deputies are to be served with civil process (summons and complaint) at the Law Enforcement Center (4 McGee Street) and an administrative assistant will accept service on behalf of the deputy near the front desk. Service will not be accepted for deputies no longer employed by the GCSO. Once served, a copy of the complaint is then scanned and provided to the Sheriff, the General Counsel, and the County Attorney.

In the event that a deputy is served directly, they should notify the General Counsel, and his or her paralegal, of the lawsuit **immediately** and provide them with a scanned copy of all documents received.

Upon service of a lawsuit, the IRF will be notified that a new case has been filed, and the IRF will appoint an attorney to represent the named defendants. The Paralegal will coordinate with the involved deputies on next steps.

Cooperation is Mandatory:

All deputies are required to cooperate with the IRF-appointed attorney, attend all discovery and hearing preparation meetings, and be responsive to any and all inquiries made by the IRF-appointed attorney, the General Counsel, or his or her paralegal. This may be required even if a deputy is not specifically named in the lawsuit.

Deputies must dress professionally for all litigation related meetings. A failure to promptly respond to inquiries or attend scheduled meetings or hearings may result in disciplinary action.

Talking with Media, Opposing Attorneys, or Insurance Companies:

Unless authorized herein, or expressly permitted by the General Counsel or his or her paralegal, deputies should refrain from discussing cases or civil lawsuits with the media, opposing attorneys, or outside insurance companies (*i.e.*, who do not insure the County or the GCSO).

If opposing attorneys or outside insurance companies contact you about a civil case, refer them to the General Counsel and refrain from giving any further comment on the incident in question. If the media contacts you, refer them to the Public Information Officer.

CIVIL CLAIMS:

In the event that a deputy causes personal injury, damage to property, or other loss to a third party, that third-party may submit a claim to the Greenville County Attorney's Office for reimbursement. The claim should be processed within 15 working days by the County Attorney's Office. The Paralegal is the main point of contact for claims in the GCSO.

FOIA REQUESTS:

South Carolina's Freedom of Information Act ("FOIA") provides the general public with access to public records created by the GCSO in conducting its public business. FOIA requests are processed in accordance with S.C. Code § 30-4-10, *et seq.*, and the records produced are often subject to "exemptions" that permit the redaction of certain sensitive information.

Notably, not all public records are available through FOIA (such as Body-Worn Camera footage, personal identifiable information, or juvenile records, to name a few).

All FOIA requests must be processed through the GCSO's FOIA management system, GovQA, which allows requestors to create a user profile, submit a request, pay for their request, and receive the requested records, all entirely online.

Deputies who encounter citizens asking to file a FOIA request should direct them to the “Public Information” page on the GCSO website. Any questions as to the processing of a FOIA request should be directed to the FOIA Coordinator or the General Counsel, if the FOIA Coordinator is unavailable.

When feasible, if a FOIA request specifically implicates a currently employed deputy (*e.g.*, a request for a deputy’s personnel file), that deputy will be notified by the FOIA Coordinator as a courtesy.

Unlike most subpoenas, each FOIA request carries with it a specific cost, depending on the amount of time it took to fulfill the request and the medium of production (*e.g.*, digitally, CD, or paper). These costs shall be published online in the form of a fee schedule. As a general rule, all individuals who file a FOIA request should be charged in accordance with the published fee schedule. Certain exceptions to this rule include victims, other law enforcement or government agencies, or other exceptional matters as determined by the General Counsel in conjunction with the Chief Deputy.

SUBPOENAS:

Deputies may be subpoenaed for two things: documents, testimony, or both. Deputies may be subpoenaed in three different contexts: civil, criminal, or domestic relations matters.

While some subpoenas may be improper or illegitimate, **subpoenas should never be ignored or neglected**, regardless of what they are for, the court they are in, or who signed it. **Subpoenas must be dealt with immediately.** This is because the deputy and/or the GCSO could be held in contempt for non-compliance. *The Honorable Anthony Dennis*, 2015 WL 1881429, at *4 (S.C.A.G. Apr. 17, 2015) (“[F]ailure to comply with a subpoena [], like the failure to comply with a court order, is supported by a court’s contempt power . . .”). If the subpoena is not withdrawn or quashed, the named deputy must comply. **Any delay or failure to respond to a subpoena will result in disciplinary action for the deputy named on the subpoena.**

In situations where the deputy is (1) entirely unfamiliar with the case, (2) believes the subpoena is “unduly burdensome,” or (3) the deputy has no time to comply with the subpoena (as in, it was received less than 7 days before the hearing or production is due), then the deputy should contact the General Counsel, who can attempt to get the subpoena withdrawn or quashed. If the subpoena is not withdrawn or quashed, and the deputy has not received a specific instruction from the General Counsel, the deputy is required to appear at the hearing for the date and time specified on the subpoena.

All subpoenas for documents should be provided to the Subpoena/Criminal Discovery Coordinator in the Legal Unit **immediately**. Failure to provide a subpoena to the Legal Unit immediately may result in disciplinary action. These requests can be left in the mailbox on the Legal Office door. The Subpoena/Criminal Discovery Coordinator will then work with the General Counsel, as needed, to process or object to the subpoena.

Below are the various types of subpoenas for testimony a deputy may encounter and how to respond to them:

Criminal Subpoenas:

Deputies who are subpoenaed to testify in a criminal matter should coordinate with the Solicitor on the case to ensure that attendance is required. A deputy may be required to bring documents with them to the hearing or trial.

In the event that the deputy is subpoenaed solely by defense counsel, and the Solicitor has not yet contacted the deputy about the case, forward the subpoena to the General Counsel, or his or her paralegal, who will help coordinate whether the deputy's attendance at the hearing is required. A deputy should never contact a defense attorney directly without first contacting either the Solicitor on the case or the General Counsel.

If the subpoena is not withdrawn, and the deputy has not received specific instruction from the Solicitor on the case or the General Counsel, the deputy is required to appear at the hearing for the date and time specified on the subpoena.

Civil Subpoenas:

Outside of a civil suit naming the GCSO or its deputies in the caption (which would be handled by the IRF), a deputy may be subpoenaed in a civil matter as a third-party to testify in a deposition or at a hearing or trial. This type of subpoena is called a third-party subpoena.

Any such subpoena for testimony should be forwarded to the General Counsel, or his or her paralegal, **immediately** for review. Never contact the requesting attorney directly without first contacting the General Counsel or his or her paralegal.

Family Court Subpoenas:

Deputies who are subpoenaed to testify in Family Court should coordinate directly with the attorney who subpoenaed them to ensure if and when attendance is required.

If the deputy has zero knowledge of the incident for which they are being subpoenaed, they should contact the General Counsel to help get the subpoena withdrawn.

**CRIMINAL
DISCOVERY:**

When deputies receive a criminal discovery request from a defendant or attorney (pursuant to South Carolina Rule of Criminal Procedure 5/Brady), they should adhere to the following procedure:

1. The deputy will complete the Rule 5 Discovery/Brady Motion Checklist located on the I: Drive.
2. The deputy will attach the discovery request, and the envelope it came in, to the completed checklist.
3. Lastly, the deputy will place both the checklist and the request into the mailbox on the Legal Unit door.

This process should be completed **immediately** upon receipt of the discovery request. If the Subpoena/Criminal Discovery Coordinator has a question when processing the request, they will contact the deputy directly. Otherwise, they will process the entire request and the deputy will not need to take any further action.

In the event that additional information or data becomes available to the arresting deputy after the request has been processed, there is a duty to supplement the material provided to the defendant. The deputy on the case should coordinate with the Subpoena/Criminal Discovery Coordinator to provide those new materials to the defendant, as soon as possible.

**VEHICLE SEIZURES
FOR DUS/DUI:**

When a vehicle is seized pursuant to requirements in S.C. Code § 56-5-6240, the Seizure Coordinator must be notified that a seizure has occurred so that the legal process may be initiated. **The following documents must be provided to the Seizure Coordinator within 24 hours of the seizure:**

1. A completed DUI/DUS Seizure Form
2. The relevant Incident Report/Code 5 for the seizure

3. Yellow copy of vehicle tow and inventory record
4. Copy of ticket, including the charge for the seizure
5. DMV copy of defendant's driving record
6. DMV copy of seized vehicle registration

These documents must be scanned and emailed to the Seizure Coordinator at SeizedVehicles@greenvillecounty.org. Failure to provide the required documentation with the above-stated timeframe may result in disciplinary action.

Once the documents have been provided, the Seizure Coordinator will notify the registered owner, and any lienholders, of the seizure within 72 hours of the seizure.

Temporary Hearing. A registered owner may appeal the seizure and request a hearing to show that either (1) he or she did not authorize the vehicle to be used by the driver or (2) that he or she did not know that the driver of the vehicle lacked a valid license. If such a hearing is requested, the seizing deputy will be required to attend a hearing and testify before the Master-in-Equity regarding the facts and circumstances giving rise to the seizure.

Said hearing must occur within 10 days of the defendant's request, as scheduled by the Court. The General Counsel, or his or her designee, will represent the GCSO in the proceedings, and the GCSO Seizure Coordinator will assist in scheduling the hearing to ensure that all parties are available and attend the hearing. Failure to appear by the seizing deputy will result in the vehicle being returned, and may result in disciplinary action.

Permanent Forfeiture Proceedings. In the event that the defendant is found guilty of the underlying offense (DUS/DUI), and a consent agreement cannot be reached with the suspect, then the GCSO will file a new lawsuit in Common Pleas for permanent forfeiture of the vehicle. In the event of any hearing, the seizing deputy will be notified by the General Counsel or the Seizure Coordinator if their testimony is required. The seizing deputy's attendance at the hearing is mandatory.

Abandonment Proceedings. In the event that the defendant is found not guilty of the underlying offense (DUS/DUI), but then fails to retrieve their vehicle within thirty (30) days, the Seizure Coordinator may move forward with the abandonment process in Magistrate's Court, to ultimately sell the vehicle at a public auction, pursuant to S.C. Code § 56-5-5640.

U-VISA PROCESSING: Any application for a U-Visa (Form I-918, Supplement B) should be forwarded directly to the Legal Unit to be processed by a designated certifying official. The U-Visa application will be reviewed pursuant to established rules and regulations provided by the U.S. Department of Homeland Security. The certifying official will consult with the General Counsel for any questions regarding eligibility under the federal rules and regulations.

Once completed, the U-Visa application will be returned to the requesting party for final review, if the relevant criteria are met.



Hobart Lewis, Sheriff